

CHAPTER 13

UTILITIES

ARTICLE 13.100 GENERAL PROVISIONS

Division 1. Miscellaneous

Secs. 13.101–13.120 Reserved

Division 2. Meters; Rates and Charges; Billing

Sec. 13.121 Rates and Charges for City-Furnished Utility Services

(a) There shall be charged and collected by the city such rates and charges as may be prescribed by the city council from time to time for the various utility services furnished to the city consumers within or without the corporate limits of the city.

(b) Charges for the utility services shall be made monthly and shall be added to and placed upon the utility bill for each residence, apartment house and commercial establishment for which there is a connection for the city utility system.

(c) If utilities are provided for less than a full billing period, the minimum charges will be as provided for in the fee schedule found in the appendix to this code. A separate charge shall be made each time the utilities are provided.

(Ordinance 1949 adopted 9/7/06)

(d) If utility services are requested outside the corporate limits of the city, the requesting party shall submit an application for review and approval by the city council. Each application will be reviewed on a case-by-case basis but the following are certain determinations and requirements to be considered prior to approval by city council:

(1) The requesting party shall bear all costs of any extensions of utilities and all water tapping fees as if within the corporate limits of the city.

(2) All city codes as well as state codes shall be followed as if within the corporate limits

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of the city. The city will be held harmless for any violations.

- (3) Backflow preventer will be installed in accordance to city and state requirements at the sole cost of the requesting party.
- (4) Utilities requested may only be used for onsite use and will be regulated depending on usage amount.
- (5) Rates to be charged will be twice the amount charged to users within the corporate limits of the city as provided in section 7.800 of appendix A of this code. Additionally, the amount of deposits shall be twice amount charged to users within the corporate limits of the city as provided in section 7.200 of appendix A of this code.
- (6) If any nonpayment, the party receiving utilities shall be subject to the same termination provisions as for customers within the corporate limits of the city.
- (7) If the city receives any violations, city will send the party receiving utilities the required notices to cure any violations. If not in compliance, then the utility services will be terminated. Such action will trigger any additional fees for reconnection as well as reimbursement for any damages caused by the violation.
- (8) The council reserves the right to add any additional provisions after reviewing the requesting parties proposal.

(Ordinance 2047 adopted 1/2/14)

Sec. 13.122 Utility Meter Deposits Required

(a) No water or electric meter shall be installed by the city until a meter deposit has been received by the cashier at the city offices at 201 W. Broadway, Brownfield, Texas. The amount of this meter deposit for a residence is set forth in the fee schedule in the appendix to this code. When a customer terminates his water service his deposit shall be refunded to him after any unpaid utility bills have been deducted. These utility bills may include water, sewer, garbage and electric bills. No deposit shall be refunded to anyone other than the person making the deposit or his legal heirs. No interest shall be paid by the city on these deposits.

(b) Positive identification of a person making a water meter deposit shall be required.

Sec. 13.123 One Water Meter per Dwelling or Business

No water or electric meter connected by the city shall serve more than one single-family residential dwelling, as defined in the zoning ordinance, or one business building. The plumbing or electrical inspector shall determine if an accessory building is an incidental part of the one single-family residential dwelling or one business building located on the same tract of land. If it is determined that it is an incidental part of the one single-family residential dwelling or one business building, no additional meter shall be required.

Sec. 13.124 Payment of Rates and Charges

(a) The rates and charges fixed and prescribed pursuant to Section 13.121 shall be due and payable in the office of the city secretary on or before the sixteenth day after the date of billing thereof.

(Ordinance 1949 adopted 9/7/06)

(b) In the event any user or customer of a city utility does not pay charges within twenty-six (26) days of the date they become due and payable, the city secretary shall add the customers account to the “disconnect list.” When the account is added to the disconnect list there shall be assessed an additional fee for accounting for disconnect list accounts. At that time the city secretary shall arrange for the account to be disconnected. The fee is due whether or not payment is received prior to the account being physically disconnected. After the account has been physically disconnected there shall be assessed a reconnect fee which must be paid prior to the account being reconnected. Upon payment in full of all charges and reconnect fees, including but not limited to any additional charges incurred as a result of the disconnection such as labor, equipment, repair of meters, damaged boxes, disconnection at the pole, and charges made necessary by the user’s delinquency or tampering, service to a customer may be resumed. In the event both water and electricity are disconnected only a single reconnect fee shall be charged.

(Ordinance 2046 adopted 9/5/13)

(c) If the various utility services of the city are disconnected or cut off on the same service call and services restored on the same service call, then at the discretion of the city secretary the reconnection charges may be reduced to a single reconnection charge as set forth in the fee schedule in the appendix to this code.

(d) If a check that has been given in payment of fees or services is returned unpaid to the city for any reason, there shall be a charge as set forth in the fee schedule in the appendix to this code for collection. Should the check be run back through the bank for collection and is paid, then a fee in the amount as set forth in the fee schedule in the appendix to this code shall be added to the customers utility bill as “other charges.” In the event the “other charges” are not paid with the utility bill, then service may be disconnected as though the entire bill was delinquent.

(e) Should the service for water and electricity have to be disconnected in order to collect the returned check, then there shall be a charge as set forth in the fee schedule in the appendix to this code for the returned check, plus the service charge as set forth in the fee schedule in the appendix to this code. In the event the charge for rechecks are not paid with the utility bill, then service may be disconnected as though the entire bill was delinquent.

Sec. 13.125 No Free or Reduced Service

It shall be unlawful for any public utility or any officer or employee of any public utility to assess or charge for services at any rate other than the rate fixed by the city council.

Sec. 13.126 Meter Tests

(a) In the event any user or customer requests that their electric or water meter be reread or rechecked, there shall be a charge as set forth in the fee schedule in the appendix to this code. If there is a mistake made by the city, there would be no charge to the customer on the recheck.

(b) Should the user or customer request that the meter be taken out and tested for accuracy, there shall be a charge as set forth in the fee schedule in the appendix to this code. Should the meter be defective, there would be no charge to the customer. The recheck service charge fee shall be added to that customers utility bill. In the event the charge for rechecks are not paid with the utility bill, then service may be disconnected as though the entire bill was delinquent.

Sec. 13.127 Meters are City Property

The water and electric meters installed for customers shall remain the property of the city.

Sec. 13.128 Tampering with Meters

(a) It shall be unlawful for any person to intentionally, by any means or device, to bypass a meter in connection with the supply of utility services to any consumer, to by any means prevent a meter from duly registering the quantity of service supplied, or in any way interfere with its proper action or just registration, or without the consent in writing of the official in charge of the service to intentionally divert any water or electricity or otherwise intentionally use or cause to be used, without the consent of the water or electrical department, any water or electricity produced or distributed by the department. Whoever damages or destroys or removes any meter, or any person who retains possession of or refuses to deliver any meter or other appliance loaned to him by the utility for the purposes of furnishing service shall guilty of a misdemeanor, each day the offense occurs or continues shall constitute a separate offense.

(b) The presence at any time on or about any such meter any device or damaged to a meter

resulting in the disruption or diversion of service and registration by the meter or diverting from the meter or resulting in the prevention of service from reaching the meter, or preventing the just registration of the meter, shall constitute prima facie evidence or knowledge on the part of the person owning or having custody and control of the room, building, place or premises where such device or pipe is in existence, or where there is a damaged or destroyed meter or where there is no meter, and knowledge of such existence of such device or pipe or damaged or destroyed meter or the absence of a meter by the person who would be benefited by the failure of the water to be properly metered, shall further constitute prima facie evidence of intention on the part of such person to defraud, and shall bring such person prima facie within the scope, meaning and penalties of this article.

Sec. 13.129 Lien for Failure to Pay Utility Service

(a) A lien for failure to pay for municipal utility services within the city may be perfected under the following circumstances:

- (1) The lien may be imposed against an account holder:
 - (A) Who has failed to pay an account for water, sewer or electric utilities when due;
 - (B) When such failure shall extend beyond sixty (60) days from the date the account first becomes due and payable; and
 - (C) When the property upon which the lien is placed does not constitute the account holder's homestead as protected by the state constitution.

(b) The lien shall be perfected by recording in the real property records of the county or any other county where the property may be located a notice of lien containing the following information:

- (1) The name of the account holder.
- (2) The legal description of the property.
- (3) The utility's account number for the delinquent charges.
- (4) The amount of charges.
- (5) A statement that the lien shall accrue interest at the rate of ten percent (10%) per annum from the date of filing.

(6) A statement that in addition to the amount of the charges due, an additional \$35.00 shall be paid for the administrative costs of imposing the lien.

(c) The lien may not be imposed for bills for service connected in a tenant's name after notice by the property owner to the municipality that the property is rental property.

(d) The lien may not be imposed for bills for service connected in a tenant's name prior to the effective date of this section (ordinance adopted September 7, 2006) imposing the lien.

(e) The lien is inferior to a bona fide mortgage lien that is recorded before the recording of the lien in the real property records of the county where the property is located. The lien is superior to all other liens, including previously recorded judgment liens and any liens recorded after the municipality's lien.

Sec. 13.130 Paving Cut Charges for Water and Sewer Taps

A charge for paving cut on water and sewer taps shall be prescribed by the city council from time to time and shall be collected before a permit for such work shall be issued.

Sec. 13.131 Liability of City for Damage

The city shall not be liable for any damage to the property of any customer of the city utility system due to backflow or any other cause outside the direct control of the city.

Secs. 13.132–13.150 Reserved

Division 3. Sewer Service

Sec. 13.151 Connection to Sewers Required; Exception

It shall be unlawful for any person owning, living on or renting any property abutting or adjoining any street or alley upon which sanitary sewer pipes have been laid, except in the event such sewer pipe is not constructed in a manner suitable for taking care of such sewer water or substance, to throw or allow to be thrown or deposited on the surface of the ground or in any hole, cesspool or vault in or under the surface of the ground.

Sec. 13.152 Manner of Connection to Sewers

It shall be unlawful for any person to make or have made any connection with the sewer system of the city that will permit any surface or drain water from the ground or from the roofs of any building or other structure to drain into such sewer system directly or indirectly; provided

however, that cellars may be connected with such sewer system when made in accordance with the regulations, plans and specifications of the city engineer and under his supervision.

Sec. 13.153 Prohibited Deposits and Acts in or to Sewer System

It shall be unlawful for any person to injure, break or remove any portion of a manhole, lamp hole, flush tank or any part of the sewer system or throw or deposit or cause to be thrown or deposited in any sewer opening or receptacle connected with the sewer system any garbage, offal, dead animal, vegetable parings, ashes, cinders, rags or other matter or things whatsoever except feces, urine and the necessary toilet paper and liquid house waste.

Sec. 13.154 Prohibition Against Interference with the Sewerage Disposal System

It shall hereafter be unlawful for any person as defined in Section 8.101, to in any manner interfere with, deter or prohibit, stop or impede any operation necessary for the operation of the sewage disposal system of the city.

ARTICLE 13.200 WATER

Sec. 13.201 Tapping Charges for Meters

The charges which shall be assessed and collected from the customer for the installation of a water meter shall be as provided in the fee schedule in the appendix to this code.

(Ordinance 1949 adopted 9/7/06)

ARTICLE 13.300 WATER WELL CONSTRUCTION^{*(1)}

Sec. 13.301 Exemption from Article Provisions

The provisions of this article shall not apply to wells or other openings less than twenty-five (25) feet in depth, provided however, that the owner of any proposed well less than twenty-five (25) feet in depth shall be required to apply for and receive from the superintendent a permit to construct said well, the application for which shall supply all the information required under Section 13.303, and for such permit the superintendent will charge and receive the fee provided therefor. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-32)

Sec. 13.302 Permit Required

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(a) Private water wells may be drilled only for the purpose of providing water to plants and livestock. It shall be unlawful for any person to drill or otherwise construct, repair, correct, abandon and/or plug a well or to engage upon such work within the city and to employ anyone else to engage in such work without first applying for and securing a permit from the superintendent of waterworks or a duly authorized agent thereof. Such permit may be granted with the approval of said superintendent to any person who files with the superintendent an application therefor, pays the required fee and complies with all other provisions of this article or as applicable to him.

(b) It shall be the duty of the superintendent to inspect the property where any well is to be drilled, sunk, dug or bored, and to refuse the issuance of a permit to drill, sink, dig or bore a well in a place which does not meet with its approval as to drainage and other sanitary conditions.

(c) Penalty. Any person violating any of the provisions of this section, shall upon conviction thereof, be fined in accordance with the general penalty provision found in Section 1.109 of the Code of Ordinances of the City of Brownfield, Texas.

(Ordinance 1906 adopted 5/6/04)

Sec. 13.303 Application for Permit; Contents

Every application for a permit for the drilling, construction, repair and correction, abandonment and/or plugging of a well shall state the name and address of the owner thereof; the purpose for which the permit is desired; the definite location of the well or proposed well; its approximate depth; if for a permit for the drilling or construction or repair and correction of a water well the estimated amount of water to be, or which is, pumped daily, monthly or annually; the use or uses for which the water will be or is required; if for a permit for the drilling or construction or for the repair and correction of a well, the proposed method of drilling or construction, or the proposed method of repair and correction, and the kind of equipment to be used; and in all cases the name of the contractor if done through a contractor whom the owner desires to drill or construct repair and correct, or do the work pursuant to an abandonment of a well in compliance with this article. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-34)

Sec. 13.304 Permit Fees

The fees to be paid to the superintendent of the waterworks for the permits required by this article shall be as set forth in the fee schedule in the appendix of this code. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-35)

Sec. 13.305 Disposition and Use of Permit Fees

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All fees and other money collected by the superintendent by virtue of this article shall be expended by said superintendent to cover the expense of making examinations of wells within the city, to make or have made the necessary analysis and tests of water therefrom, to supervise the construction, repair, abandonment and plugging of wells and the operation of same, and such other expenses as may be necessary to the enforcement of this article. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-36)

Sec. 13.306 Issuance of Permit

All permits to construct, drill, dig or excavate a well shall be executed in triplicate, one (1) copy to be delivered to the applicant and two (2) copies to be retained in the office of the superintendent. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-37)

Sec. 13.307 Supplemental Permit Required for Extension of Depth

It shall be unlawful for any applicant who obtains a permit to construct a well of a certain depth, to extend such well to a depth exceeding the depth provided for in such permit without first obtaining an additional permit therefor. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-38)

Sec. 13.308 Powers and Duties of Superintendent

(a) The superintendent of water works shall have the power:

- (1) To make or have made examinations of all wells within the city whether privately owned or otherwise;
- (2) To make or have made at any time the necessary analysis and/or tests of water therefrom;
- (3) To go upon the land and property of the owner or owners of wells for that purpose;
- (4) To require the owner or owners to furnish all information requested concerning the wells, including in the case of new wells, complete logs of the well showing depth to and depth through all geologic formations encountered; and
- (5) To supervise the construction, repair, abandonment and plugging of wells and the operation of the same.

(b) The superintendent shall keep a register of all wells within the city which shall show the name of the owner, the location and the date of construction of each well, its depth and diameter,

the purpose for which the well was constructed and if abandoned the date of such abandonment.

(c) All acts authorized to be done by said superintendent may be performed by such persons as may be authorized by said superintendent to act for him.

(1965 Code of Ordinances, Chapter 21, Article II, Section 21-39)

Sec. 13.309 Abandoned Wells; Disposition

(a) Defined. For the purpose of this article, an abandoned well is:

- (1) a defective well which in the judgment of the superintendent, cannot be corrected to comply with the requirements of this article, or
- (2) any well which has been continuously out of use for a period of two (2) years or longer.

(b) Report. Whenever any well has not been in active use for more than two (2) years, the owner or operator of the same shall report said fact to the superintendent:

(c) Filling and Plugging. Every abandoned well shall be filled and plugged with such materials and in such manner as in the judgment of the superintendent will prevent the pollution and contamination of the city's water supply or the contamination of any other well within the city. Such filling and plugging shall be done under the supervision of said superintendent and at the expense of the owner of such well.

(d) Notice to Fill. Whenever the superintendent shall receive notice from any source of the existence of an abandoned well which has not been plugged and filled in accordance with the provisions of this article, he shall notify the owner or agent in charge of said well or of the property upon which it is situated that such well is abandoned and shall instruct him to fill and plug such well in accordance with this article. The owner or operator of such well shall comply with such order within sixty (60) days after the date of same.

(e) Filling by City. Should the owner fail to so comply with such notice during such period or if after using reasonable diligence, or should the superintendent fail to locate the owner or the agent in charge of such well or of the property upon which the well is situated, the superintendent may go on the land or property upon which the well is situated and fill and plug the same in the manner required by this section. Whenever it becomes necessary for the superintendent to fill and plug any abandoned well, the owner thereof shall be liable to the superintendent for the cost of doing such work and shall pay the same upon demand.

(1965 Code of Ordinances, Chapter 21, Article II, Section 21-40)

Sec. 13.310 Polluted or Polluting Wells Declared Nuisance; Abatement

Any well or other opening constructed within the city penetrating the underground water supply and which pollutes or contaminates any other well or the city's water supply, is hereby declared a nuisance and on notice to the owner of such well, to the operator thereof or to his agent in charge of the well or of the property on which it is situated, issued by the superintendent, said nuisance shall be abated by the owner within ten (10) days from date of such notice by filling and plugging the well or opening in the manner provided for in this article for abandoned wells. If he shall fail to abate such nuisance within said time, or if after exercising reasonable diligence the superintendent is unable to locate the owner or his agent, the superintendent shall have the right to go on the land or property upon which the well is situated and abate said nuisance in the manner provided and the owner thereof shall be liable to the superintendent for the cost of such work and shall pay same upon demand. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-41)

Sec. 13.311 Contaminated Wells to be Plugged

Every well constructed in the city, whether drilled, dug or excavated, which encounters salt water or water containing mineral or other substance injurious to health or vegetation, shall be securely plugged and sealed or cased in such manner that the waters therein shall be confined to the stratum or strata in which found. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-42)

Sec. 13.312 Correction of Defective Wells

Every well whether dug, drilled or constructed within the city which for any reason does not completely prevent the mixing of water or other liquid from above and below the source of the city's water supply with the water in the source of the city's water supply, or which for any reason would tend to pollute or contaminate any other well or the water in the source of the city's water supply, shall be considered a defective well and the superintendent on his own initiative or upon information or complaint from any source may make an examination of any well suspected of being defective. If said examination indicates in the opinion of the superintendent that the well is a probable source of contamination of the city water supply or any other well or that the water from said well is unsafe for human consumption, shall issue written instructions to the owner or his agent in charge of such well or the property upon which it is situated, for correcting the defects to comply with the provisions of this article, and prescribe a time which in his judgment under all the circumstances, is reasonable and within which such instructions shall be complied with. It shall be unlawful for the owner or owners or operators of such defective well to fail to comply with such instructions within the time limit prescribed by said superintendent. (1965

Code of Ordinances, Chapter 21, Article II, Section 21-43)

Sec. 13.313 Casing of Well

(a) All wells shall be so constructed and cased so that no water from one stratum can by reason of the construction of the well come in contact with waters from another stratum. The casing shall be set in the top of the stratum from which water is to be taken and shall be cemented in place by a suitable method to be approved by the superintendent, to the end that cement shall be forced up around the outside of the casing from the bottom of the casing to the surface of the ground so that all waters found in the strata, except that from which water is to be used, shall be sealed off one from the other by the cement, or if a better method than cementing shall be scientifically developed to accomplish the purpose mentioned, such better method may be prescribed by the superintendent in lieu of cementing.

(b) The casing used shall be of weight per foot not less than the following:

<u>Size of Casing</u>	<u>Minimum Weight Per Foot</u>
4-inch	10 pounds
5-inch	14 pounds
6-inch	18 pounds
8-inch	28 pounds
10-inch	40 pounds
12-inch	49 pounds
15-inch O.D.	60 pounds
18-inch O.D.	80 pounds
20-inch O.D.	89 pounds

(c) The casing shall be mechanically continuous from the point of setting in the bottom of the well to a point not less than twelve (12) inches above ground level and shall be so installed as to make impossible any leakage as against any pressures which may be encountered.

(d) If the casing is of two (2) or more diameter sizes, the different sizes shall be connected with threaded nipples or be sealed with rubber, cement or lead or by some other manner with this article shall be required.

(1965 Code of Ordinances, Chapter 21, Article II, Section 21-44)

Sec. 13.314 Liberal Compliance With Article Provisions

In areas within the corporate limits where in the opinion of the water superintendent it is not feasible for the city to supply water from its system, then only a liberal compliance with this article shall be required. (1965 Code of Ordinances, Chapter 21, Article II, Section 21-45)

ARTICLE 13.400 WATER AND SEWER MAIN EXTENSIONS

Sec. 13.401 Pro Rata Charge

(a) The City of Brownfield may extend water and sanitary sewer mains in the streets and alleys or easements within the city limits of the City of Brownfield in order to permit connections by persons desiring and seeking water service and sanitary sewer service. A charge which shall be known as the "pro rata" shall be made against each lot or tract of land, and the owner thereof, whose water or sewer service line shall be hereafter connected with any water main or sanitary sewer service main in the City of Brownfield, constructed or installed after the effective date of this article, and the charge shall be as set forth in the fee schedule in the appendix of this code. (1965 Code of Ordinances, Chapter 21, Article III, Section 21-56; Ordinance adopting Code)

(b) The front foot rates shall apply to property fronting on streets in areas platted into the usual rectangular lots or tracts of land, with a depth of not to exceed one hundred forty (140) feet. Where lots or tracts have greater depth than one hundred forty (140) feet from the front street line, and are occupied, or are to be occupied, exclusively as dwelling places, then the additional depth shall not be assessed. If the property is later subdivided, requiring an extension of mains to serve same, then the terms of this article shall govern. Where lots or tracts are irregular in size or shape, then pro rata charges shall be based upon equivalent rectangular lots or tracts using one front foot for each one hundred forty (140) square feet of area, or the pro rata charges provided herein on the average frontage of such tracts, whichever is least.

(c) Where lots or tracts are intended to be used for business, commercial or industrial purposes and have a depth greater than one hundred forty (140) feet from the front street line, then the pro rata herein provided shall be paid on the frontage on all streets which the property may abut, minus one hundred forty (140) feet frontage for each corner of the property abutting a street intersection. Should said property be re-subdivided whereby water main extensions are required to serve same, the terms of this article shall apply.

(d) Where water is to be used solely for firefighting purposes and the lines are not otherwise tapped for domestic, commercial or industrial uses, no pro rata charge will be required under this article.

(1965 Code of Ordinances, Chapter 21, Article III, Section 21-56)

Sec. 13.402 Extension of Water and Sewer Lines to Serve an Individual Residence or Business

(a) Upon requests of the owner or his agent of a given lot or tract of land, for the purpose of this article known as the "applicant," accompanied by the payment of the pro rata due under this article, or the cost of the extension as provided in Section 13.409, the City of Brownfield shall extend, lay or construct all necessary sanitary sewer and water mains, including valves and hydrants a distance of one hundred (100) feet, plus the distance across the frontage necessary to provide service for which application has been made. Only one such one hundred (100) foot extension will be made for any applicant during any twelve (12) month period. The property owner to be served shall be required to pay the charges herein provided for, including the pro rata charge on his property and all intervening property. The owners of all intervening property served by the given main extension shall be required to pay the charges provided for herein at such time as their property is connected to the mains thus laid, and the pro rata monies so collected on the intervening property shall be refunded out of pro rata funds to the person making the original deposit refunds to be made of only that portion of the deposit in excess of the pro rata on property for which the extension was requested. Where an applicant for service secures an extension and service under this particular option the main extension, he shall pay the pro rata charges on all property owned by him and which is served by the extension requested. In applying the one hundred (100) foot rule, the required extension of main shall be figured in such manner as to leave out of the calculations that portion of any main adjacent to property already having other than a temporary water and/or sewer service and for which the pro rata charges thereon have been paid or credited under the terms of this article.

(b) An exception to the above one hundred (100) foot rule shall be made where two (2) or more individual applicants; desire water and/or sewer and the nearest applicant is more than one hundred (100) feet from existing lines; the City of Brownfield will extend their mains upon payment of the charges due under this article provided there is one customer for every one hundred (100) feet of such free extension, excluding street intersections and that portion of the extension adjacent to property already having other than temporary water and/or sewer service.

(1965 Code of Ordinances, Chapter 21, Article III, Section 21-57)

Sec. 13.403 Sewer Connection and Sewer Service Fees

(a) A user classification is hereby established for all users of the municipal wastewater facilities as follows:

- (1) Class A-1 Single Family Dwellings.

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- (2) Class A-2 Multi-Family Dwellings.
- (3) Class B Commercial.
- (4) Class A-1 shall include all single family residential users.
- (5) Class A-2 shall include multi-family residential users such as duplexes, apartment houses, trailer courts or other multi-family residential type users.
- (6) Class B shall include all commercial establishments such as hotels, motels, hospitals, schools and all governmental offices and buildings, and all other establishments with the exception of residential dwellings.

(b) For the furnishing of sewer service and sewer connections by the City of Brownfield, the said services shall be charged for by the City of Brownfield in accordance with the rates hereinafter established and set out in the fee schedule in the appendix of this code.

- (1) Provided however that if any person, firm or corporation can demonstrate to the City of Brownfield that any part of the water used is not returned to the sewer system of the City of Brownfield, a reduction of the charge may be granted by the City of Brownfield in proportion to the amount of water not returned to the sewer system. The burden of proof of the percent that is not returned to the sewer system is hereby placed on the customer.
- (2) Shall there be an establishment, business or commercial, not using City water, or using City water for only a portion of its total water use, then the sewer rates for such establishment in excess of the minimum monthly charge as set forth in the fee schedule in the appendix of this code.

(c) User Charge Schedules. All users of municipal wastewater facilities shall be charged on a volume basis as the bio-chemical oxygen demand (BOD) suspended solids and other pollutant concentrations discharged are approximately equal for all classes of users. The charges shall be determined in accordance with the following formula:

$$C_u = C_b + C_t / V_t (V_u)$$

(Based on Model # 1, 40 CFR 35, Appendix B)

Symbols and Definitions:

C_u = A user's charge per unit of time.

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C_b = A user's base minimum charge per unit of time for costs not associated with operations and maintenance of flow related units of wastewater facilities.

C_t = Total operation and maintenance (O & M) costs per unit of time of flow related units of wastewater facilities.

V_t = Total volume contribution from all users per unit of time (may include extraneous flows).

V_u = Volume contributions from a user per unit of time.

(d) Excessive Strength Charges. For any user, when the BOD exceeds 300 mg/l, or the suspended solids exceed 300 mg/l, or when other pollutant concentrations exceed the range of concentrations of these pollutants in normal domestic sewage, a surcharge shall be added to the basic charge. This surcharge shall be added to the basic charge. This surcharge shall be calculated by the following formula:

$$C_s = [B_c (B) + S_c (S) + P_c (P)]V_u$$

(Based on Model No. 2, 40 CFR 35, Appendix B)

Symbols and Definitions:

C_s = A surcharge for wastewaters of excessive strength.

B_c = O & M cost for treatment of a unit of biochemical oxygen demand (BOD)

B = Concentration of BOD from a user above a base level.

S_c = O & M cost for treatment of a unit of suspended solids (SS)

S = Concentration of SS from a user above a base level.

P_c = O & M cost for treatment of a unit of any pollutant.

P = Concentration of any pollutant from a user above a base level.

V_u = Volume contribution from a user per unit of time.

The City may require pre-treatment of wastewater of excessive strength if it is determined that

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any pollutant contained in such wastewater will adversely affect the operation and maintenance of the wastewater collection system or treatment works.

(e) Review and Revision. The User Charge Ordinance shall be reviewed annually regarding the wastewater contribution of users and user classes, the total cost of the operation and maintenance of the treatment works, and its approved user charge system. The charges for users of user classes shall be revised to accomplish the following:

- (1) Maintain the proportionate distribution of operation and maintenance costs among user and user classes.
- (2) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works and the collection system and to pay all debt, service costs, billing and collection costs and sewer department overhead costs.
- (3) Apply excess revenues collected from a class of users to the costs attributable to that class for the next year, and rates shall be adjusted accordingly.

(f) Toxic Pollutants Charges. Each user that discharges any toxic pollutant which cause an increase in the cost of managing the effluent or the sludge of the treatment works shall pay for such increased costs.

(g) Notification. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(h) Charges for Extraneous Flows. The costs of operation and maintenance for all flows not directly attributable to users (such as infiltration/inflow) shall be distributed among users on the same basis as operation and maintenance charges.

(i) Records. A record keeping system shall be established and maintained by the City to document compliance with federal regulations pertaining to the user charge ordinance.

(j) Billing. Users will be billed on a monthly basis with payment past due sixteen (16) days after the date of billing. If the charges for sewer services are not paid within twenty six (26) days after they become due, the City of Brownfield shall refuse to furnish water or sewer service to the account. Whenever the amount past due and delinquent account is paid, a re-connection fee shall be charged as set forth in the fee schedule in the appendix of this code.

(k) Charges for Cutting Pavement. In the event that it becomes necessary to cut the pavement

of any street, alley or sidewalk in connection with the installation or repair of sewer service, there is established a minimum charge as set forth in the fee schedule in the appendix of this code for pavement cut or damaged. However, in no event shall the fee for repairing pavement be less than the actual cost to the City for such repairs. In the event the charge as set forth in the fee schedule in the appendix of this code is less than the City's actual cost, then the fee shall be increased to the City's actual cost of repairing the paving cut.

(1) Validity. All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this article shall not affect the validity of any other part of this article which can be given effect without such invalid part or parts. The user charge system shall take precedence over any terms or conditions of agreements or contracts between the City of Brownfield and any of the users which are inconsistent with applicable federal regulations regarding user charge system.

(Ordinance 1865 adopted 11/15/01)

Sec. 13.404 Extension of Water and Sewer Lines for Development of Property

(a) Where extensions of the water and/or sewer system are required to serve property which has been or is being subdivided or platted for development and resale, the City of Brownfield will construct such mains as are required to conform to the master plan of the City of Brownfield or as established by the city engineer to completely serve the property with domestic service and fire protection upon deposit of the total cost, funds to be deposited before preparation of final plans and specifications of such extensions, including the cost of approach mains fronting property not owned by the developer but necessary to connect the area for which application is made with the City of Brownfield system. In no case shall the amount deposited for construction of such water and sewer lines be less than the pro rata charges on the property in the subdivision to be served. The estimated cost of the proposed improvements shall be deposited with the city by the developer before the city authorizes the preparation of final plans and specifications and before advertisement for bids.

(b) If the funds deposited by the developer to be placed in an escrow account are more than the total final cost of the systems, the difference shall be refunded to the developer, and if the funds deposited are insufficient to pay the final total cost the developer shall deposit with the city such additional funds as required to equal the total cost. No water and sewer service shall be made available until all required funds are deposited with the city.

(c) After approval of plans and specifications for the proposed improvements, the City of Brownfield will advertise for bids for construction of the project and after receipt of bids the contract will be awarded to the lowest responsible bidder as determined by the city council.

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(d) Upon completion of the installation of the water and sewer system the water and sewer mains and all appurtenances shall become property of the City of Brownfield, Texas.

(e) If water mains larger than six (6) inches in diameter are required as an approach main or as a distribution main within the subdivision, the city will refund to the developer the estimated additional cost of the water main required and a six (6) inch diameter main, as determined by the city.

(f) If sewer system extensions require an approach sewer main or a collection sewer main within the subdivision, larger than six (6) inches in diameter, the city will refund to the developer the estimated additional cost of the larger sewer main and a six (6) inch sewer main as determined by the city.

(g) If there are existing water and sewer mains in alleys or streets that will be used for service mains to serve lots in the proposed subdivision, pro rata charges will be made and said pro rata charges shall be paid for as connections are made to the existing mains.

(h) When an approach main is in a border street or alley, and at such time as service connections are made to such, water or sewer lines to serve abutting property a pro rata charge will be collected from the owner of the property served and such amount collected shall be refundable to the developer or person who originally paid for such main.

(i) No refunds will be made to the developer of the subdivision except the refunds mentioned above and since the developer will already have paid for the water and sewer system serving the subdivision no pro rata charge will be made for connections to the systems installed to serve said subdivision.

(j) In no event may the City of Brownfield be required to make extensions under the provisions of this article if funds are not available for the purpose.

(1965 Code of Ordinances, Chapter 21, Article III, Section 21-58)

Sec. 13.405 Charges to be Credited to Water and Sewer Pro Rata Fund

Any and all sums of money hereinafter collected as a pro rata charge or deposit for water or sewer extensions at the rates set out in this article shall be credited to the water and sewer pro rata fund of the City of Brownfield and said funds shall be used for paying contractor for installation of said lines as provided in the contract. Refunds shall be paid from this water and sewer pro rata fund, provided funds are available from this source. Money hereinafter collected as pro rata charges are deposited may be used for further extensions of water and sewer system if funds are available. (1965 Code of Ordinances, Chapter 21, Article III, Section 21-59)

Sec. 13.406 Existing Lines Exempt

All property platted into lots or tracts and having existing water and sanitary sewer mains installed by the City of Brownfield, prior to October 15, 1959, shall be exempt from the pro rata charges for the water and sanitary sewer mains as to the said existing adequate mains. Where such property is later subdivided, whereby an extension of mains is required to serve same, then the terms of this article shall govern. Nothing in this article shall prohibit the payment of water and sewer pro rata charges required by the fee schedule in the appendix of this code, water and sewer lines installed prior to the effective date of this article and after October 15, 1959. (1965 Code of Ordinances, Chapter 21, Article III, Section 21-60)

Sec. 13.407 Where Front Foot Rule Inequitable; No Vested Rights

The intent and purpose of this article is to provide an equitable charge for water and sanitary sewer connections as a proportionate distribution of the cost of water and sanitary sewer main extensions to serve property in the City of Brownfield in a front foot basis. In case property or a tract of land is so situated or shaped that the front foot rule creates an inequitable basis between it and other tracts of land in the City of Brownfield, then in that event, the city manager of the City of Brownfield shall determine the proper charges in accord with the intent and purpose of this article. No person shall acquire any vested rights to any water and sewer line installed under the terms and provisions of this article, nor to any pro rata funds deposited or paid under the terms and provisions of this article. (1965 Code of Ordinances, Chapter 21, Article III, Section 21-61)

Sec. 13.408 Both Water and Sewer Services Required; Exception

(a) The city will not extend water, or sewer service unless both services are provided except as provided in subsection (b) below. All connections with existing city water mains shall be made by the city water department. Water mains smaller than 4" shall not be permitted, and sewer mains smaller than 6" shall not be permitted.

(b) The city council may grant a variance to allow the continued use of an existing on-site sewerage system with city water service if the council finds the following:

- (1) The on-site system is more than 300 feet beyond an existing functionally available sewer line;
- (2) The existing on-site system complies with all requirements of the City of Brownfield (Article 13.600 of the Code of Ordinances) and any other regulatory agency;

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- (3) The requirement of constructing the sewer extension required to service the property constitutes a substantial hardship which was not created by the applicant;
- (4) The requirement of construction of the sewer extension by the applicant is not reasonable under the circumstances then existing.

(Ordinance 1907 adopted 5/9/04)

Sec. 13.409 Contracts Required

(a) All applications for the extension of water and/or sanitary sewer lines contemplated by the provisions of this article shall be made on forms provided by the city, which application shall not be binding upon either party until all conditions precedent have been met by the applicant, required payments made and the contract approved and duly executed by the city manager.

(b) A contract entered into by any property owner and the City of Brownfield under the provisions of this article shall be effective only for a period of five (5) years after the date of the contract. No refunds will be made by the City of Brownfield to any applicant or contracting party after this five (5) year period has expired.

(1965 Code of Ordinances, Chapter 21, Article III, Section 21-63)

Sec. 13.410 Deposits and Interest

Unless otherwise specifically provided herein all applicants shall deposit the total cost of any water and/or sanitary sewer extensions to be made, the required pro rata charges, whichever is greater and the City of Brownfield shall never be liable for payment of interest on any deposits, payments or refunds provided for herein. (1965 Code of Ordinances, Chapter 21, Article III, Section 21-64)

Sec. 13.411 Use of Pro Rata Funds

Funds paid into the water and sewer pro rata fund by developers and others shall not be used except to accomplish the purposes set out herein. Where general funds are used to expedite extensions coming within the provisions of this article such water and sewer pro rata fund may be used for proper reimbursement. (1965 Code of Ordinances, Chapter 21, Article III, Section 21-65)

Sec. 13.412 Extensions by Resolutions of the City Council

Where the city council finds that in populated areas and in specific locations therein due to the

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absence of water and sewer service the public welfare would be best served by making such extensions at its own cost, and after due investigation and consideration, in order to avoid and eliminate extremely unhealthful conditions which are contributing factors to epidemics, and where money is available for such purposes, it is the express policy of the council when expressed by its resolution to extend water and sanitary sewer mains into these populated areas without a deposit being required from the property owner. Provided however, when lines are extended following such resolution, the property owner will be required to pay the pro rata charges established by this article when such property is connected to the water or sewer main. These pro rata charges may be paid in such a manner as the city council may hereafter determine. (1965 Code of Ordinances, Chapter 21, Article III, Section 21-66)

Sec. 13.413 Sanitary Sewer House Laterals

(a) The sanitary sewer house laterals shall be installed and paid for by the property owner under provisions of the city plumbing ordinance. Each house lateral installation shall be inspected by the city plumbing inspector and the owner thereof shall be required to pay an inspection fee for each installation. This inspection fee is to be paid to the city at the time the plumbing permit is issued.

(b) If any house lateral installation requires the removal of any pavement within the limits of any public street or alley, the pavement shall be replaced by the City of Brownfield, Texas, and before any excavation is made in any paved street or alley, the property owner shall deposit with the City of Brownfield, Texas, the sum as set forth in the fee schedule in the appendix of this code.

(c) No service connection to the sanitary sewer system of the City of Brownfield shall serve more than one single family residential dwelling as defined in the zoning ordinance or one business building. The plumbing inspector shall determine if an accessory building is an incidental part of the one single family residential dwelling or one business building located on the same tract of land. If it is determined that it is an incidental part of the one single family residential dwelling or one business building, no additional sanitary sewer service shall be required.

(1965 Code of Ordinances, Chapter 21, Article III, Section 21-67)

Sec. 13.414 Water Service Connections

(a) The City of Brownfield shall install and maintain all water service connections complete including meters and meter boxes, in the streets and alleys or easements inside of the city limits of the City of Brownfield, and shall charge for the installation and maintenance of such complete service connections in accordance with the fee schedule in the appendix of this code.

(b) On services larger than two (2) inches in diameter, an estimate will be made of the total cost of the service by the city and such estimated amount shall be deposited with the City of Brownfield before work is started on such connection; the final cost shall be adjusted upon completion of the work, and if the actual cost is higher than the estimate cost, the increased cost shall be paid to the city before service is furnished through the connection; if the actual cost is less than the estimated cost, the city will refund the difference to the party making the original deposit.

(1965 Code of Ordinances, Chapter 21, Article III, Section 21-68)

ARTICLE 13.500 INDUSTRIAL WASTES

Sec. 13.501 Definitions

As used in this article, the following words and phrases shall have the meanings given them in this section:

Approving Authority. Shall mean the city manager or his duly authorized representative.

BOD (Biochemical Oxygen Demand). Shall mean the quantity of oxygen by weight, expressed in milligrams per liter (mg/l), utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees centigrade.

Building Sewer. Shall mean the extension from the building drain to the public sewer or other place of disposal (also called house lateral and house connection).

City. Shall mean the City of Brownfield, Texas, or any authorized person acting in its behalf.

COD (Chemical Oxygen Demand). Shall mean measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in milligrams per liter (mg/l) as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Control Manhole. Shall mean a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control Point. Shall mean a point of access to a course of discharge before the discharge mixes

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with other discharges in the public sewer.

Garbage. Shall mean animal and vegetable wastes and residue from the preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

Industrial Waste. Shall mean waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

Industrial Waste Charge. Shall mean the charge made on those persons who discharge industrial wastes into the city's sewerage system.

Milligrams Per Liter (Mgl). Shall mean the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Natural Outlet. Shall mean any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

Normal Domestic Wastewater. Shall mean wastewater, excluding industrial wastewater, discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than two hundred fifty (250) mg/l and BOD is not more than two hundred fifty (250) mg/l.

Overload. Shall mean the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Person. Shall include corporation, organization government or governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Ph. Shall mean the reciprocal of the logarithm (base 10) of the hydrogen ion concentration expressed in grams per liter.

Public Sewer. Shall mean a pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City of Brownfield.

Sanitary Sewer. Shall mean a public sewer that conveys domestic wastewater or industrial wastes or a combination of both; and into which storm water, surface water, groundwater and other unpolluted wastes are not intentionally passed.

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Slug. Shall mean any discharge of water, wastewater or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four hour concentration or flows during normal operation.

Standard Methods. Shall mean the examination and analytical procedures set forth in the latest edition at the time of analysis.

Standard Methods for the Examination of Water and Wastewater. Shall be prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

Storm Sewer. Shall mean a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

Storm Water. Shall mean rainfall or any other forms of precipitation.

Superintendent. Shall mean the water and wastewater superintendent of the City of Brownfield or his duly authorized deputy, agent or representative.

Suspended Solids (SS). Shall mean solids measured in mg/l that either float on the surface of, or are in suspension in water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

To Discharge. Shall include to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of, or to allow, permit or suffer any of these acts or emissions.

Trap. Shall mean a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted Wastewater. Shall mean water containing:

- (1) No free or emulsified grease or oil;
- (2) No acids or alkalis;
- (3) No phenols or other substances producing taste or odor in receiving water;
- (4) No toxic or poisonous substances in suspension, colloidal state or solution;
- (5) No noxious or otherwise obnoxious or odorous gases;

- (6) Not more than ten (10) mg/l each of suspended solids and BOD; and
- (7) Color not exceeding fifty (50) units as measured by the Platinum-Cobalt method of determination as specified in standard methods.

Waste. Shall mean rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater. Shall mean a combination of the water carried waste from residences, business buildings, institutions and industrial establishments, together with any ground, surface and storm water that may be present.

Wastewater Facilities. Shall include all facilities for collection, pumping, treating and disposing of wastewater and industrial wastes.

Wastewater Treatment Plant. Shall mean any city owned facilities, devices and structures used for receiving, processing and treating wastewater, industrial waste and sludges from the sanitary sewers.

Wastewater Service Charge. Shall mean the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Watercourse. Shall mean a natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

(1965 Code of Ordinances, Chapter 21, Article III, Section 21-81)

Sec. 13.502 Prohibited Discharges

(a) No person may discharge to public sewers any waste which by itself or by interaction with other wastes may:

- (1) Injure or interfere with wastewater treatment processes or facilities;
- (2) Constitute a hazard to humans or animals; or
- (3) Create a hazard in receiving waters of the wastewater treatment plant effluent.

(b) All discharges shall conform to requirements of this article.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-82)

Sec. 13.503 Chemical Discharges

(a) No discharge to public sewers may contain:

- (1) Cyanide greater than 1.0 mg/1;
- (2) Fluoride other than that contained in the public water supply;
- (3) Chlorides in concentrations greater than three hundred fifty (350) mg/1;
- (4) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas; or
- (5) Substances causing an excessive chemical oxygen demand (COD).

(b) No waste or wastewater discharged to public waters may contain:

- (1) Strong acid, iron pickling wastes or concentrated plating solutions whether neutralized or not;
- (2) Fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0 and 65° Centigrade).
- (3) Objectionable or toxic substances exerting an excessive chlorine requirement to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials; or
- (4) Obnoxious, toxic or poisonous solids, liquids or gases in quantities sufficient to violate the provisions of Section 13.502(a).

(c) No waste, wastewater or other substance may be discharged into public sewers which has a pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel at the wastewater facilities.

(d) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other

taste and odor producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal or other agencies with jurisdiction over discharges to receiving waters.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-83)

Sec. 13.504 Heavy Metals and Toxic Materials

(a) No discharges may contain concentrations of heavy metals greater than amounts specified in subsection (b) below.

(b) The maximum allowable concentrations of heavy metals stated in terms of milligrams per liter (mg/l), determined on the basis of individual sampling in accordance with standard methods, are:

	<u>Metals</u>	<u>Mgl</u>
(1)	Arsenic	0.05
(2)	Barium	5.00
(3)	Boron	1.00
(4)	Cadmium	0.02
(5)	Chromium (total)	5.00
(6)	Copper	1.00
(7)	Lead	0.11
(8)	Manganese	1.00
(9)	Mercury	0.005
(10)	Nickel	1.0
(11)	Selenium	0.02
(12)	Silver	0.1
(13)	Zinc	5.0

(c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.

(d) Prohibited heavy metals and toxic materials include, but are not limited to:

- (1) Antimony

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- (2) Beryllium
- (3) Bismuth
- (4) Cobalt
- (5) Molybdenum
- (6) Tin
- (7) Uranylion
- (8) Rhenium
- (9) Strontium
- (10) Tellurium
- (11) Herbicides
- (12) Fungicides
- (13) Pesticides

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-84)

Sec. 13.505 Garbage

(a) No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half (1/2) inch in any dimension are prohibited.

(b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-85)

Sec. 13.506 Storm Water and Other Unpolluted Drainage

(a) No person may discharge to public sanitary sewers:

- (1) Unpolluted storm water, surface water, groundwater, roof runoff or subsurface drainage;
- (2) Unpolluted cooling water;
- (3) Unpolluted industrial process waters; or
- (4) Other unpolluted drainage.

(b) In compliance with the Texas Water Quality Act and other statutes, the approving authority

may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) above may be discharged.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-86)

Sec. 13.507 Temperature

No person may discharge liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Centigrade), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten (10) degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to one hundred ten (110) degrees Fahrenheit. (1965 Code of Ordinances, Chapter 21, Article IV, Section 21-87)

Sec. 13.508 Radioactive Wastes

(a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.

(b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-88)

Sec. 13.509 Impairment of Facilities

(a) No person may discharge into public sewers any substance capable of causing:

- (1) Obstruction to the flow in sewers;
- (2) Interference with the operation of treatment processes of facilities; or
- (3) Excessive loading of treatment facilities.

(b) Discharges prohibited by subsection (a) above include, but are not limited to materials which exert or cause concentrations of:

- (1) Inert suspended solids greater than two hundred fifty (250) mg/l, including but not limited to:
 - (A) Fuller's earth;

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- (B) Lime slurries; and
- (C) Lime residues;
- (2) Dissolved solids greater than fifteen hundred (1500) mg/1, including but not limited to:
 - (A) Sodium chloride; and
 - (B) Sodium sulfate;
- (3) Excessive discoloration, including but not limited to:
 - (A) Dye wastes; and
 - (B) Vegetable tanning solutions; or
- (4) BOD, COD or chlorine demand in excess of normal plant capacity.
- (c) No person may discharge into public sewers any substance that may:
 - (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
 - (2) Overload skimming and grease handling equipment;
 - (3) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action;
 - (4) Deleteriously affect the treatment process due to excessive quantities.
- (d) No person may discharge any substance into public sewers which:
 - (1) Is not amenable to treatment or reduction by the processes and facilities employed; or
 - (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (e) The approving authority shall regulate the flow and concentration of slugs when they may:

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- (1) Impair the treatment process;
- (2) Cause damage to collection facilities;
- (3) Incur treatment costs exceeding those for normal wastewater; or
- (4) Render the waste unfit for stream disposal or industrial use.

(f) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) above if present in sufficient quantity or size, including but not limited to:

- (1) Ashes;
- (2) Cinders;
- (3) Sand;
- (4) Mud;
- (5) Straw;
- (6) Shavings;
- (7) Metal;
- (8) Glass;
- (9) Rags;
- (10) Feathers;
- (11) Tar;
- (12) Plastics;
- (13) Wood;
- (14) Unground garbage;
- (15) Whole blood;

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- (16) Paunch manure;
- (17) Hair and fleshings;
- (18) Entrails;
- (19) Paper products, either whole or ground by garbage grinders;
- (20) Slops;
- (21) Chemical residues;
- (22) Paint residues; or
- (23) Bulk solids.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-89)

Sec. 13.510 Compliance With Existing Authority

(a) Unless exception is granted by the approving authority, the public sewer system shall be used by all persons discharging:

- (1) Wastewater;
- (2) Industrial wastes;
- (3) Polluted liquids; or
- (4) Unpolluted waters or liquids.

(b) Unless authorized by the Texas Water Quality Board, no person may deposit or discharge any waste included in subsection (a) above on public or private property in or adjacent to any:

- (1) Natural outlet;
- (2) Watercourse;
- (3) Storm sewer; or
- (4) Other area within the jurisdiction of the city.

(c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-90)

Sec. 13.511 Approving Authority Requirements

(a) If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment or receiving waters; create a hazard to life or health, or create a public nuisance, the approving authority shall require:

- (1) Pretreatment to an acceptable condition for discharge to the public sewers;
- (2) Control over the quantities and rates of discharge; and
- (3) Payment to cover the cost of handling and treating the wastes.

(b) The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (a) above.

(c) The approving authority shall reject wastes when:

- (1) It determines that a discharge or proposed discharge is included under subsection (a) above; and
- (2) The discharger does not meet the requirements of subsection (a) above.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-91)

Sec. 13.512 Approving Authority Review and Approval

(a) If pretreatment or control is required, the approving authority shall review and approve the design and installation of equipment and processes.

(b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.

(c) Any person responsible for discharges requiring pretreatment, flow-equalizing or other facilities shall provide and maintain the facilities in effective operating condition at his own

expense.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-92)

Sec. 13.513 Requirements for Traps

(a) Discharges requiring a trap include:

- (1) Grease or waste containing grease in excessive amounts;
- (2) Oil;
- (3) Sand;
- (4) Flammable wastes; and
- (5) Other harmful ingredients.

(b) Any person responsible for discharges requiring a trap shall at his own expense and as required by the approving authority:

- (1) Provide equipment and facilities of a type and capacity approved by the approving authority;
- (2) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
- (3) Maintain the trap in effective operating condition.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-93)

Sec. 13.514 Requirements for Building Sewers

Any person responsible for discharges through a building sewer carrying industrial wastes shall at his own expense and as required by the approving authority:

- (1) Install an accessible and safely located control manhole;
- (2) Install meters and other appurtenances to facilitate observation sampling and measurement of the waste; and

- (3) Maintain the equipment and facilities.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-94)

Sec. 13.515 Sampling and Testing

(a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constitutes upon the sewage works and determining the existence of hazards to health, life, limb and property.

Note: The particular analyses involved will determine whether a twenty-four hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four hour composites of all outfalls. Where applicable, sixteen hour, eight hour or some other period may be required. Periodic grab samples are used to determine pH.

(b) Examination and analyses of the characteristics of waters and wastes required by this article shall be:

- (1) Conducted in accordance with the latest edition of standard methods; and
- (2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.

(c) BOD and suspended solids shall be determined from composite sampling.

(d) The city may select an independent firm or laboratory to determine flow, BOD and suspended solids.

(e) The city is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-95)

Sec. 13.516 Payment and Agreement Required

(a) Persons making discharges of industrial waste shall pay a charge to cover the cost of collection and treatment.

(b) When discharges of industrial waste are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing terms of

acceptance by the city and payment by the person making the discharge.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-96)

Sec. 13.517 Industrial Waste Charge and Added Costs

(a) If the volume or character of the waste to be treated by the city does not cause overloading the sewage collection, treatment or disposal facilities of the city, then, prior to approval, the city and the person making the discharge shall enter into an agreement which provides that the discharger pay an industrial waste charge to be determined from the schedule of charges.

(b) If the volume or character of the waste to be treated by the city requires that wastewater collection, treatment or other disposal facilities of the city be improved, expanded or enlarged in order to treat the waste, then prior to approval, the city and the person making the discharge shall enter into an agreement which provides that the discharger pay in full all added costs the city may incur due to acceptance of the waste.

(c) The agreement entered into pursuant to subsection (a) above shall include but not be limited to:

- (1) Amortization of all capital outlay for collecting and treating the waste, including new capital outlay and the proportionate part of the value of the existing system used in handling and treating the waste; and
- (2) Operation and maintenance costs including salaries and wages, power costs, costs of chemicals and supplies, proper allowances for maintenance, depreciation, overhead and office expense.

(d) Amortization shall be completed in a twenty year period and payment shall include all debt service costs.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-97)

Sec. 13.518 Schedule of Charges

(a) Charges for sewer service to industries discharging waste into the sewage system shall be the same as the rates for commercial establishments, which includes a minimum monthly charge. An additional monthly charge for the use of sewer for such commercial establishment shall be calculated on the basis of the water meter readings for the month for which the said charge is made.

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(b) Provided however, that if any person, firm or corporation can demonstrate to the City of Brownfield that any part of the water so used is not returned to the sewer system of the city, a reduction of the charge may be granted by the city in proportion to the amount of water not returned to the sewer system. The burden of proof of the percent that is not returned to the sewer system is hereby placed on the customer.

(c) Should there be an establishment, business or commercial, not using city water or using city water for only a portion of its total water use, then the sewer rates for each such establishment in excess of the minimum rate per month shall be based upon the estimated gallons of water used by said establishment the same to be arrived at on a basis that is reasonable and fair to said business or commercial establishment and to the city.

(d) The city may require the industry to furnish evidence by laboratory tests or other approved methods provided for in this article, that the waste from the industry is not above the BOD (three hundred (300) mg/1) and suspended solids (three hundred (300) mg/1), and that it will not create an excessive load on the sewage treatment facilities, and that the waste does not contain any chemicals or other substance as provided in this article, that would be detrimental to the treatment of the sewage in the sewage treatment facilities.

(e) In such cases as mentioned in subsection (d) above and after provisions of this article have been met and discharge into the sewage system has been approved by the approving authority, the rate charged for such sewer service shall be the basic charge plus a surcharge calculated by the following formula:

$$C_8 = [B_C(B) + S_C(S) + P_C(P)] V_u^*$$

Symbols and Definitions:

C_8 = A surcharge for wastewaters of excessive strength.

B_C = Operation and Maintenance (O&M) cost for treatment of a unit of biochemical oxygen demand (BOD).

B = Concentration of BOD from a user above a base level.

S_C = Operation and Maintenance (O&M) cost for treatment of a unit of suspended solids (SS).

S = Concentration of suspended solids (SS) from a user above a base level.

P_C = Operation and Maintenance (O&M) cost for treatment of a unit of any pollutant.

P = Concentration of any pollutant from a user above a base level.

V_u = Volume contribution from a user per unit of time.

The city may require pretreatment of wastewater of excessive strength if it is determined that any pollutant contained in such wastewater will adversely affect the operation and maintenance of the wastewater collection system or treatment works.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-98)

Sec. 13.519 Adjustment of Charges

(a) The city shall review at least annually the basis for determining charges and shall adjust treatment cost to reflect increases or decreases in wastewater treatment costs based on the previous year's experience.

(b) The city shall bill the discharger by the month and shall show industrial waste charges as a separate item on the regular bill for water and sewer charges. The discharges shall pay monthly in accordance with practices existing for payment of sewer charges.

*Note-This formula is based on Model No. 2, 40 CFR 35, Appendix B.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-99)

Sec. 13.520 Continuation of Existing Uses

A person discharging industrial wastes into public sewers prior to the effective date of this article may continue without penalty so long as he:

- (1) Does not increase the quantity or quality of discharge without permission of the approving authority; and
- (2) Has discharged the industrial waste at least twelve (12) months prior to the effective date of this article.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-100)

Sec. 13.521 Power to Enter Property

(a) The superintendent and other duly authorized employees of the city bearing proper

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credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this article.

(b) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security and fire protection.

(c) Except when caused by negligence or failure of the company to maintain safe conditions, the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the sampling operation.

(d) The superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of:

- (1) Inspection, observation, measurement, sampling or repair;
- (2) Maintenance of any portion of the sewerage system lying within the easements; and
- (3) Conducting any other authorized activity.

All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

(e) No person acting under authority of this provision may inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-101)

Sec. 13.522 Authority to Disconnect Service

(a) The city may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:

- (1) Acids, chemicals or any other substance damaging to sewer lines or treatment process are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;
- (2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and

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it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or

- (3) The industrial customer:
 - (A) Discharges industrial waste or wastewater that is in violation of the provisions of this article;
 - (B) Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;
 - (C) Fails to pay monthly bills for water and sanitary sewer services when due; or
 - (D) Repeats a discharge of prohibited wastes to public sewers.

(b) If service is disconnected pursuant to subsection (a) above, the city shall:

- (1) Disconnect the customer;
- (2) Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and
- (3) Continue disconnection until such time as the industrial customer provides additional pretreatment or other facilities designed to remove the objectionable characteristics from his industrial wastes.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-102)

Sec. 13.523 Notice

The city shall serve persons discharging in violation of this article with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance. (1965 Code of Ordinances, Chapter 21, Article IV, Section 21-103)

Sec. 13.524 Continuing Prohibited Discharges

No person may continue discharging in violation of this article beyond the time limit provided in the notice. (1965 Code of Ordinances, Chapter 21, Article IV, Section 21-104)

Sec. 13.525 Penalty

(a) A person who continues prohibited discharges is guilty of a misdemeanor and upon conviction is punishable by a fine in accordance with the general penalty provision as set forth in Section 1.109 of this code for each act of violation and for each day of violation.

(b) In addition to proceeding under authority of subsection (a) above, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.

(1965 Code of Ordinances, Chapter 21, Article IV, Section 21-105)

Sec. 13.526 Failure to Pay

In addition to sanctions provided for by this article, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due. (1965 Code of Ordinances, Chapter 21, Article IV, Section 21-106)

ARTICLE 13.600 IDENTITY THEFT PREVENTION PROGRAM*(2)

Sec. 13.601 Program Adoption

The city developed this identity theft prevention program (“program”) pursuant to the Federal Trade Commission’s red flags rule (“rule”), which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003. 16 C.F.R. Section 681.2. This program was developed with oversight and approval of the city council. After consideration of the size and complexity of the city utility’s operations and account systems, and the nature and scope of the city utility’s activities, the city council determined that this program was appropriate for the city, and therefore approved this program on October 23, 2008.

Sec. 13.602 Program Purpose and Definitions

(a) Fulfilling Requirements of the Red Flags Rule. Under the red flags rule, every financial institution and creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant red flags for new and existing covered accounts and incorporate those red flags into the program;
- (2) Detect red flags that have been incorporated into the program;

- (3) Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
 - (4) Ensure the program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from identity theft.
- (b) Red Flags Rule Definitions Used in This Program.
- (1) The red flags rule defines “identity theft” as “fraud committed using the identifying information of another person” and a “red flag” as “a pattern, practice, or specific activity that indicates the possible existence of identity theft.”
 - (2) According to the rule, a municipal utility is a creditor subject to the rule requirements. The rule defines creditors “to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where nonprofit and government entities defer payment for goods or services, they, too, are to be considered creditors.”
 - (3) All the city utility accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the rule. Under the rule, a “covered account” is:
 - (A) Any account the city offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
 - (B) Any other account the city offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the city from identity theft.
 - (4) “Identifying information” is defined under the rule as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including: name, address, telephone number, Social Security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer’s internet protocol address, or routing code.

Sec. 13.603 Identification of Red Flags

In order to identify relevant red flags, the city considers the types of accounts that it offers and

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maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with identity theft. The city identifies the following red flags, in each of the listed categories:

- (1) Notifications and Warnings from Credit Reporting Agencies.
 - (A) Report of fraud accompanying a credit report;
 - (B) Notice or report from a credit agency of a credit freeze on a customer or applicant;
 - (C) Notice or report from a credit agency of an active duty alert for an applicant; and
 - (D) Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.
- (2) Suspicious Documents.
 - (A) Identification document or card that appears to be forged, altered or inauthentic;
 - (B) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
 - (C) Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
 - (D) Application for service that appears to have been altered or forged.
- (3) Suspicious Personal Identifying Information.
 - (A) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
 - (B) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
 - (C) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;

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- (D) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
 - (E) Social Security number presented that is the same as one given by another customer;
 - (F) An address or phone number presented that is the same as that of another person;
 - (G) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law Social Security numbers must not be required); and
 - (H) A person's identifying information is not consistent with the information that is on file for the customer.
- (4) Suspicious Account Activity or Unusual Use of Account.
- (A) Change of address for an account followed by a request to change the account holder's name;
 - (B) Payments stop on an otherwise consistently up-to-date account;
 - (C) Account used in a way that is not consistent with prior use (example: very high activity);
 - (D) Mail sent to the account holder is repeatedly returned as undeliverable;
 - (E) Notice to the city that a customer is not receiving mail sent by the utility;
 - (F) Notice to the city that an account has unauthorized activity;
 - (G) Breach in the city's computer system security; and
 - (H) Unauthorized access to or use of customer account information.
- (5) Alerts from Others. Notice to the city from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

Sec. 13.604 Detecting Red Flags

(a) New Accounts. In order to detect any of the red flags identified above associated with the opening of a new account, city personnel will take the following steps to obtain and verify the identity of the person opening the account:

- (1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- (2) Verify the customer's identity (for instance, review a driver's license or other identification card);
- (3) Review documentation showing the existence of a business entity; and
- (4) Independently contact the customer.

(b) Existing Accounts. In order to detect any of the red flags identified above for an existing account, city personnel will take the following steps to monitor transactions with an account:

- (1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- (2) Verify the validity of requests to change billing addresses; and
- (3) Verify changes in banking information given for billing and payment purposes.

Sec. 13.605 Preventing and Mitigating Identity Theft

In the event city personnel detect any identified red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag:

- (1) Prevent and Mitigate.
 - (A) Continue to monitor an account for evidence of identity theft;
 - (B) Contact the customer;
 - (C) Change any passwords or other security devices that permit access to accounts;
 - (D) Not open a new account;

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- (E) Close an existing account;
 - (F) Reopen an account with a new number;
 - (G) Notify the city council for determination of the appropriate step(s) to take;
 - (H) Notify law enforcement; or
 - (I) Determine that no response is warranted under the particular circumstances.
- (2) Protect Customer Identifying Information. In order to further prevent the likelihood of identity theft occurring with respect to city accounts, the city will take the following steps with respect to its internal operating procedures to protect customer identifying information:
- (A) Ensure that its website is secure or provide clear notice that the website is not secure;
 - (B) Ensure complete and secure destruction of paper documents and computer files containing customer information;
 - (C) Ensure that office computers are password protected and that computer screens lock after a set period of time;
 - (D) Keep offices clear of papers containing customer information;
 - (E) Request only the last 4 digits of Social Security numbers (if any);
 - (F) Ensure computer virus protection is up to date; and
 - (G) Require and keep only the kinds of customer information that are necessary for utility purposes.

Sec. 13.606 Program Updates

This program will be periodically reviewed and updated to reflect changes in risks to customers and the soundness of the city from identity theft. At least annually, the city council will consider the city's experiences with identity theft situation, changes in identity theft methods, changes in identity theft detection and prevention methods, changes in types of accounts the city maintains and changes in the city's business arrangements with other entities. After considering these factors, the city council will determine whether changes to the program, including the listing of

red flags, are warranted.

Sec. 13.607 Program Administration

(a) Oversight. Responsibility for developing, implementing and updating this program lies with the city council.

(b) Staff Training and Reports. City staff is responsible for implementing the program and shall be trained either by or under the direction of the city secretary in the detection of red flags, and the responsive steps to be taken when a red flag is detected. Training will be conducted annually unless new personnel are employed.

(c) Service Provider Arrangements. In the event the city engages a service provider to perform an activity in connection with one or more accounts, the city will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

- (1) Require, by contract, that service providers have such policies and procedures in place; and
- (2) Require, by contract, that service providers review the city's program and report any red flags to the city secretary.

(d) Specific Program Elements and Confidentiality. For the effectiveness of this identity theft prevention program, the red flag rule envisions a degree of confidentiality regarding the city's specific practices relating to identity theft detection, prevention and mitigation. Therefore, under this program, knowledge of such specific practices are to be limited to those employees who need to know them for purposes of preventing identity theft. Because this program is to be adopted by a public body and thus publicly available, it would be counterproductive to list these specific practices here. Therefore, only the program's general red flag detection, implementation and prevention practices are listed in this document.

(Ordinance 1981 adopted 10/23/08)

ARTICLE 13.700 DROUGHT CONTINGENCY PLAN*(3)

Sec. 13.701 Declaration of Policy, Purpose, and Intent

(a) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to

protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city hereby adopts the following regulations and restrictions on the delivery and consumption of water.

(b) Water uses regulated or prohibited under this drought contingency plan (the plan) are considered to be nonessential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section 13.710 of this article.

Sec. 13.702 Public Involvement

Opportunity for the public to provide input into the preparation of the plan was provided by the city by means of press releases, notices on utility bills, and a public meeting.

Sec. 13.703 Public Education

The city will periodically provide the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of press releases through official newspaper of the city, local radio station, and notices on utility bills.

Sec. 13.704 Coordination with Regional Water Planning Groups

The service area of the city is located within the Llano Estacado Regional Water Planning Group (region "O") and the Canadian River Municipal Water Authority. The city manager is hereby authorized and directed to provide a copy of this plan to the Canadian River Municipal Water Authority and Llano Estacado Regional Water Planning Group.

Sec. 13.705 Authorization

The city manager or his designee is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The city manager or his designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan.

Sec. 13.706 Application

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the city. The terms "person" and "customer" as used in the plan include individuals,

corporations, partnerships, associations, and all other legal entities.

Sec. 13.707 Definitions

For the purposes of this plan, the following definitions shall apply:

Aesthetic Water Use. Water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and Institutional Water Use. Water use which is integral to the operations of commercial and nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation. Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer. Any person, company, or organization using water supplied by the city.

Domestic Water Use. Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even-Numbered Address. Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial Water Use. The use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape Irrigation Use. Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Nonessential Water Use. Water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this plan;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other

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vehicle;

- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd-Numbered Address. Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Sec. 13.708 Triggering Criteria for Initiation and Termination of Drought Response Stages

(a) The water and wastewater superintendent or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the plan. Public notification of the initiation or termination of drought response stages shall be by means of publication in the official newspaper of the city, local radio and through cable television local organization channel.

(b) The triggering criteria described below are based on an analysis of the vulnerability of the water source under drought of record conditions and any identifiable limitations of production and/or delivery systems.

(1) Stage 1 - Mild Water Shortage Conditions.

(A) Requirements for Initiation. Customers shall be requested to voluntarily

conserve water and adhere to the prescribed restrictions on certain [nonessential] water uses, as defined in Section 13.707 - definitions, when the water supply available is less than seventy-five percent (75%) of flow capabilities, or when the water and wastewater superintendent determines that a water shortage condition exists.

- (B) Requirements for Termination. Stage 1 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist as determined by the water and wastewater superintendent.
- (2) Stage 2 - Critical Water Shortage Conditions.
- (A) Requirements for Initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses as defined in Section 13.707 - definitions of this plan when the water supply available is less than fifty percent (50%) of flow capabilities, or when the water and wastewater superintendent determines that a critical water condition exists based on:
 - (i) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
 - (ii) Natural or manmade contamination of the water supply source(s).
 - (B) Requirements for Termination. Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist as determined by the water and wastewater superintendent.
- (3) Stage 3 - Emergency Water Shortage Conditions.
- (A) Requirements for Initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses as defined in Section 13.707 - definitions of this plan when the water and wastewater superintendent determines that an emergency water crisis condition exists based on:
 - (i) An analysis of water supply availability under drought of record conditions may indicate that there is an immediate risk of water supply shortage;
 - (ii) That there exists severe facility capacity limitations; or

(iii) Emergency conditions such as supply source contamination exists.

- (B) Requirements for Termination. Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist as determined by the water and wastewater superintendent.

Sec. 13.709 Drought Response Stages

The water and wastewater superintendent shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section 13.708 of the plan, shall determine that a mild, critical, or emergency condition exists and shall implement the following actions upon publication of notice in a newspaper of general circulation:

(1) Stage 1 - Mild Water Shortage Conditions.

(A) Goal. Achieve a ten percent (10%) reduction in daily water demand.

(B) Supply Management Measures. Describe measures, if any, to be implemented to manage limited water supplies and/or reduce water demand may include reduced or discontinued flushing of water mains, activation and use of an alternative supply source(s); use of reclaimed water for nonpotable purposes.

(C) Voluntary Water Use Restrictions.

(i) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(ii) All operations of the city shall adhere to water use restrictions prescribed for stage 2 of the plan.

(iii) Water customers are requested to practice water conservation and to minimize or discontinue water use for nonessential purposes.

(2) Stage 2 - Critical Water Shortage Conditions.

(A) Goal. Achieve a fifty percent (50%) reduction in daily water demand.

- (B) Supply Management Measures. Measures, if any, to be implemented to manage limited water supplies and/or reduce water demand may include reduced or discontinued flushing of water mains, activation and use of an alternative supply source(s); reduced or discontinued irrigation of public landscaped areas, and use of reclaimed water for nonpotable purposes.
- (C) Water Use Restrictions. All requirements of stage 1 shall remain in effect during stage 2 except:
 - (i) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a handheld hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.
 - (ii) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a handheld bucket or a handheld hose equipped with a positive shutoff nozzle for quick rises. Vehicle washing may be done at any time on the immediate premises of a commercial carwash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
 - (iii) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
 - (iv) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

- (v) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the city.
- (vi) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the city, the facility shall not be subject to these regulations.
- (vii) All restaurants are prohibited from serving water to its patrons except when requested.
- (viii) The following uses of water are defined as nonessential and are prohibited:
 - a. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - b. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - c. Use of water for dust control;
 - d. Flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

(3) Stage 3 - Emergency Water Shortage Conditions.

- (A) Goal. Achieve a seventy-five percent (75%) reduction in daily water demand.
- (B) Supply Management Measures. Measures, if any, to be implemented to manage limited water supplies and/or reduce water demand may include reduced or discontinued flushing of water mains, activation and use of an alternative supply source(s); reduced or discontinued irrigation of public landscaped areas, and use of reclaimed water for nonpotable purposes.

- (C) Water Use Restrictions. All requirements of stage 1 and 2 shall remain in effect during stage 3 except:
- (i) Irrigation of landscaped areas is absolutely prohibited.
 - (ii) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
 - (iii) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.
 - (iv) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
 - (v) No applications for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

Sec. 13.710 Enforcement

(a) No person shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the city manager, or his/her designee, in accordance with provisions of this plan.

(b) Any person who violates this plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day that one or more of the provisions in this plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this plan, the city secretary shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at one hundred dollars (\$100.00), and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city secretary that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(c) Any person, including a person classified as a water customer of the city, in apparent

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control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this plan and that the parent could not have reasonably known of the violation.

(d) Any employee of the city designated by the city manager, may issue a citation to a person he/she reasonably believes to be in violation of this article. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Sec. 13.711 Variances

(a) The city manager or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- (1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.
- (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(b) Persons requesting an exemption from the provisions of this article shall file a petition for variance with the city manager within 5 days after the plan or a particular drought response stage

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has been invoked. All petitions for variances shall be reviewed by the city manager, or his/her designee, and shall include the following:

- (1) Name and address of the petitioner(s).
 - (2) Purpose of water use.
 - (3) Specific provision(s) of the plan from which the petitioner is requesting relief.
 - (4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this article.
 - (5) Description of the relief requested.
 - (6) Period of time for which the variance is sought.
 - (7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date.
 - (8) Other pertinent information.
- (c) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the city manager or his/her designee:
- (1) Variances granted shall include a timetable for compliance.
 - (2) Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.
- (d) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

(Ordinance 2050 adopted 5/1/14)

ARTICLE 13.800 ELECTRIC RATES*(4)

The monthly rates or charges for services furnished by the Electric Light and Power System of the city shall be as set forth in the fee schedule in the appendix to this code.

ARTICLE 13.900 WATER CONSERVATION PLAN

Sec. 13.901 Adopted

The city's water conservation plan as maintained on file in the office of the city secretary and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the city. (Ordinance 2052 adopted 8/21/14)

ARTICLE 13.1000 POLE ATTACHMENTS

Sec. 13.1001 Definitions

Communications Provider. A cable provider, certificated telecommunications provider, and any other entity providing voice, video, cable, data, internet, or information services to the general public. The term does not include the city or a governmental entity providing governmental services.

Conduit. A structure containing one or more ducts.

Duct. A single enclosed raceway for a conductor, cable, or wire.

Pole Attachment. Any attachment by a communications provider to a utility pole, duct, or conduit owned by the city.

Telecommunications Carrier. The meaning assigned to such term by Title 47 U.S.C. Section 153.

Sec. 13.1002 Attachment Rates

(a) Prior to the execution of any pole attachment agreement, or prior to the modification of the attachment rate contained in any existing pole attachment agreement, the city manager or his designee shall determine a single nondiscriminatory, competitively neutral pole attachment rate to be charged for each pole attachment, regardless of the nature of the service provided. Such pole attachment rate shall not exceed the maximum rate the municipality would be permitted to charge a telecommunications carrier under the Federal Communication Commission's rules implementing subsection (e) of 47 U.S.C. Section 244 if the municipality's pole attachments rates were regulated by the FCC.

(b) If a communications provider is a party to an existing pole attachment contract with the

city, the pole attachment rate determined under part (a) above shall be applied to such communications carrier's pole attachments in a manner consistent with the terms and conditions of the existing contract.

(c) The pole attachment rate shall be in addition to any other fees, charges, or costs required to be paid by or assessed against a communications carrier pursuant to its pole attachment contract or any ordinance, rule or law.

(Ordinance 1948 adopted 8/31/06)

ARTICLE 13.1100 DISTRIBUTED GENERATION

Sec. 13.1101 Purpose

(a) The purpose of this article is to outline the city's operational requirements for distributed generation (DG) facilities of 50 kilowatts or less operated in parallel with the city's electrical system and is not intended to be a complete listing of all operational, regulatory, safety and other requirements.

(b) The city shall interconnect distributed generation pursuant to public utility commission of Texas Substantive rules 25.211 and 25.212.

Sec. 13.1102 Definitions

Distributed generation. An electrical generating facility located at a customer's point of delivery (point of common coupling) of fifty (50) kilowatts (KW) or less and connected at a voltage less than 15 kilovolts (KV) which may be connected in parallel operation to the city's electric system.

Interconnection. The physical connection of the distributed generation to the utility system in accordance with the requirements of this article so that parallel operation can occur.

Net metering. A system in which solar panels or other renewable energy generators are connected to a public utility power grid and surplus power is transferred on to the grid, allowing customers to offset the costs of power drawn from the utility.

Networked secondary. Two or more utility primary distribution feeder sources electrically tied together on the secondary (low voltage) side to form one power source for one or more customers. The service is designed to maintain service to the customers even after the loss of one or these primary distribution feeder sources.

Parallel operation. The operation of distributed generation by a customer while the customer is connected to the city's electric system.

Point of interconnection (point of service, point of common coupling). The point where the electrical conductors of the company utility system are connected to the customer's conductors and where any transfer of electric power between the customer and the utility system takes place, such as switchgear near the meter.

Pre-certified equipment. A specific generating and protective equipment system or systems that have been certified as meeting the applicable parts of this article relating to safety and reliability by an entity approved by the commission.

Stabilized. The city's electric system shall be considered stabilized when, following a disturbance, the system returns to the normal range of voltage and frequency of a duration of two minutes.

Sec. 13.1103 Application and Agreement Required

(a) Before a person or entity may interconnect or operate in parallel a distributed generation system within the city electric system, that person or entity must apply with the city by completing and submitting the application for interconnection and parallel operation of distributed generation. Applications will be available at city hall.

(b) The application shall be reviewed by the city manager or his designee for approval.

(c) Upon approval, the customer shall execute the agreement for interconnection and parallel operation of distributed generation that establishes the terms and conditions before interconnecting with the city's electric system.

(d) The interconnection shall not be energized prior to the execution of the agreement as required herein.

Sec. 13.1104 Ownership of Facilities

(a) With the exception of only the city's meter, the customer shall own and solely be responsible for all expense, installation, maintenance and operation of the generating installation at and beyond the point of delivery.

(b) At its sole discretion, the city may install city-owned metering equipment and transformers past the point of delivery.

(c) Any necessary meter(s) or meter modifications in addition to one standard service meter will be installed, maintained and operated by the city at the customer's expense.

Sec. 13.1105 Self-Protection of Distributed Generation Facilities

(a) The customer (at the customer's expense) will furnish, install, operate and maintain in good order and repair all equipment necessary for the safe operation of DG facilities operated in parallel with the electrical system.

(b) The customer's equipment will have capability to both establish and maintain synchronism with the electrical system and to automatically disconnect and isolate the DG facility from the city in the event of an outage of the city's system or a malfunction of the generating installation.

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(c) The customer's DG facility will also be designed, installed and maintained to be self-protected from normal and abnormal conditions on the city. The conditions for which the power generating installation shall be self-protected and shall include, but not be limited to, over-voltage, under-voltage, overcurrent, frequency deviation, and faults. The self-protection will be compatible with the city's system protection arrangements and operating policies.

(d) Specialized protective functions may be required by the city when, in the sole judgment of the city, the particular DG facility installation and/or the electric power system characteristics so warrant. The customer shall be responsible for the costs of any specialized protective functions.

(e) Any unapproved generating equipment found operating in parallel with the city's electrical system may be immediately disconnected by the city and not allowed to reconnect until the appropriate review and approval from the city has been obtained.

Sec. 13.1106 Quality of Service

(a) The customer's generation shall not exceed the rated capacity of the electrical service (service entrance, meter base, conductors, etc.) serving the facility's load.

(b) The customer's DG facility will provide power at the nominal voltage of the city's electric system at the customer's delivery point plus or minus five percent (5%), at the nominal system frequency of 60 Hz plus or minus one-tenth (1/10) Hz as defined by ANSI C84.1 Range A.

(c) Customer generation greater than 25 KW shall be three-phase unless specifically approved in writing by the city. Where multiple generators are connected to the electrical distribution system through a single service point, the sum of the rating of the generators will be used to determine KW rating.

(d) Customer's DG installation will generate power at a frequency within the tolerances as defined by IEEE 1547.

(e) Customer's DG facility shall interconnect at a power factor that is at or near one hundred percent (100%) as is practicable. In the event the customer's power factor is less than ninety percent (90%) leading or lagging, the customer will provide proper power factor correction (within ten percent (10%) of unity) or reimburse the city the cost of any necessary correction. Customer's DG facility shall be in accordance with the power quality limits specific in IEEE 519.

(f) The overall quality of the power provided by the customer's DG facility including, but not limited to, the effects of harmonic distortion, voltage regulation, voltage flicker, switching surges and power factor, will be such that the city's electric system is not adversely affected in any

manner.

(g) In the event that the adverse effects are caused in whole or in part by the customer's DG facility, the city will disconnect services immediately and will not allow reconnection until the appropriate review and approval from the city has been obtained.

Sec. 13.1107 Safety Disconnect

The customer shall provide and install, at the customer's expense, a visible load break disconnect switch:

- (1) The switch will be located so as to be readily accessible to city personnel at all times in a location acceptable to both the customer and city.
- (2) The switch shall be a type that can be secured in an open position by a city padlock.
- (3) Signage shall be placed by the customer at the disconnect indicating the purpose of the switch as "alternate power source" with contact names and numbers of the customer.
- (4) The customer shall not bypass the disconnect switch or lock at any time for any reason.
- (5) The city shall have the right to lock the switch open when, in the judgment of the city:
 - (A) It is necessary to maintain safe electrical operating or maintenance conditions.
 - (B) The customer's DG adversely affects the city's electric system.
 - (C) There is a system emergency or other abnormal operating condition warranting disconnection.
 - (D) For routine maintenance, repairs, and utility system modifications the utility shall reconnect the customer as quickly as reasonably possible following any such service interruption.
 - (E) There is not an interconnection agreement filed and approved with the city.
 - (F) The city reserves the right to operate the disconnect switch for the protection of the city's system even if it affects the customer's DG facility.

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- (6) In the event the city opens and/or closes the disconnect switch:
 - (A) The city shall not be responsible for energizing or restoration of parallel operation of the DG facility. (The city will make reasonable efforts to notify the customer.)
- (7) Customers with DG facilities which are solely for the purpose of emergency backup or peak shaving without intent to export power shall not operate their DG facilities at any time unless visibly disconnected from the city's electrical system. At its sole discretion, the city may require customer to install at his/her own expense an interlocking switch for the purpose of insuring the customer's facilities do not operate in parallel with the city's facilities.
- (8) Should the city lose power serving the customer's DG facilities for any reason, customers with DG facilities shall not operate their DG facilities unless visibly disconnected from the city's electrical system.

Sec. 13.1108 Access

- (a) Persons authorized by the city will have the right to enter the customer's property for purposes of operating the disconnect switch, reading or metering at any time. Such entry onto the customer's property may be without notice.
- (b) If the customer erects or maintains locked gates or other barriers, the customer will furnish the city with convenient means to circumvent the barrier for access to the disconnect switch and meter(s).

Sec. 13.1109 Liability for Injury and Damages

- (a) The customer assumes full responsibility for electric energy furnished at and past the point of interconnection and shall indemnify the city and/or its power supplier against and hold the city and/or its power supplier harmless from all claims for both injuries to persons, including death resulting there from, and damages to property occurring upon the premises owned or operated by customer arising from electric power and energy delivered by the city or in any way arising directly or indirectly from the customer's DG facility.
- (b) The city and/or its power supplier shall not be liable for either direct or consequential damages resulting from failures, interruptions, or voltage and waveform fluctuations occasioned by causes reasonably beyond the control of the city and/or its power supplier including, but not limited to, acts of God or public enemy, sabotage and/or vandalism, accidents, fire, explosion, labor troubles, strikes, order of any court or judge granted in any bona fide adverse legal

proceeding or action, or any order of any commission, tribunal or governmental authority having jurisdiction. All provisions notwithstanding, in no event shall the city be liable to the customer for any interest, loss of anticipated revenue, earnings, profits, or increased expense of operations, loss by reason of shutdown or non-operation of customer's premises or facilities for any indirect, incidental, or consequential, punitive or exemplary damages arising out of or related, in whole or part, to this agreement. The city shall not be liable in any event for consequential damages.

(c) The customer is solely responsible for insuring his/her facility complies with all applicable regulations including, but not limited to, laws, regulations, ordinances, city and city power supplier tariffs, policies and directives.

Sec. 13.1110 Notice of Change in Installation

(a) The customer will notify the city in writing thirty (30) days in advance of making any change affecting the characteristics, performance, or protection of the distributed generation facility.

(b) If it comes to the city's attention that the modification will create or has created conditions which may be unsafe or adversely affect the city's electrical system, the city will disconnect services immediately and will not allow reconnection until the appropriate review and approval from the city has been obtained.

Sec. 13.1111 Testing and Recordkeeping

(a) The customer will test all aspects of the protection systems up to and including tripping of the generator and interconnection point at start-up and thereafter as required. Testing will verify all protective set points and relay/breaker trip timing and shall include procedures to functionally test all protective elements of the system. The city may witness the testing.

(b) The customer will maintain records of all maintenance activities and the city may review at reasonable times.

Sec. 13.1112 Refusal to Purchase

(a) The city may at certain times and as operating conditions warrant reasonably refuse to accept part or all of the output of the customer's facility. Such refusal shall be based on system emergency constraints, special operating requirement, and adverse effects of the customer's facility on the city's electrical system or violation by the customer of the terms of this article.

(b) The city shall not be required to make any purchases that will cause the city to no longer be in compliance with any applicable contracts or power contract requirements with its power

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supplier or regulatory authority.

Sec. 13.1113 Compliance with Laws, Rules and Tariffs

The DG installation owned and installed by the customer shall be installed and operated subject to and in accordance with the terms and conditions set forth in the city's rules, regulations, bylaws, rates and tariffs, as amended from time to time, and, if applicable, approved by the city council, which are incorporated herein by reference, and in compliance with all applicable federal, state and local laws, regulations, zoning codes, building codes, safety rules, environmental restrictions, ordinances and regulations, including without limitation, and in accordance with industry standard prudent engineering practices.

Sec. 13.1114 Metering

(a) The city may supply, own, and maintain all necessary meters and associated equipment to record energy purchases by the customer and energy exports to the utility system. The customer shall supply at no cost to the utility a suitable location on its premises for the installation of the utility's meters and other equipment.

(b) The following metering options are available:

- (1) Parallel operation with interconnection through single meter measuring net consumption. Net consumption shall be billed at applicable rate.
- (2) Parallel operation with interconnection through two meters, one measuring net consumption (inflow) and the other measuring net production (outflow). Net production shall be purchased at net metering rate as provided in appendix A, article 7.000 entitled "utility related fees," section 7.700 entitled "electric rates."

Sec. 13.1115 Avoided Wholesale Power Cost

The city avoided wholesale power cost will be calculated by dividing the prior twelve (12) months total wholesale power purchase cost (excluding demand cost, transmission cost, SPP and related fees, and distribution cost) by the prior twelve (12) months total kWh's purchased.

(Ordinance 2068 adopted 11/19/16)

Endnotes

1 (Popup - Popup)

* **State law reference**–Water wells, V.T.C.A., Water Code, ch. 28.011 et seq.

2 (Popup - Popup)

* **Editor’s note**–Former Article 13.600 pertaining to on-site sewage disposal has been repealed by Ordinance 1939 adopted June 1, 2006.

3 (Popup - Popup)

State law reference–Drought contingency plans, V.T.C.A., Water Code, sec. 11.1272.

4 (Popup - Popup)

* **Editor’s note**– To avoid future supplementation of this article the history note has been omitted, refer to the fee schedule in appendix A.