

**ORDINANCE NO. 040805-02**

**AN ORDINANCE REPEALING AND REPLACING ARTICLES 1 THROUGH 16 OF CHAPTER 15-9 OF THE CODE RELATING TO UTILITY SERVICE REGULATIONS; RENUMBERING ARTICLES 17 AND 18 OF CHAPTER 15-9 OF THE CODE; READOPTING OFFENSES; AND PROVIDING PENALTIES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Articles 1 through 16 of Chapter 15-9 of the Code are repealed and replaced to read:

**CHAPTER 15-9. UTILITY SERVICE REGULATIONS.**

***ARTICLE 1. GENERAL PROVISIONS.***

**§ 15-9-1     DEFINITIONS.**

In this chapter:

- (1) ACCOUNT means the record of consumption, charges, and payments for services or products provided to a customer by a utility.
- (2) BILLING CYCLE means the interval of approximately 30 days between successive meter reading dates.
- (3) CITY means the City of Austin, Texas and, depending on the context:
  - (a) the Electric Utility;
  - (b) the Water Utility;
  - (c) the Watershed Protection and Development Review Department;
  - (d) the Solid Waste Services Department; or
  - (e) the Law Department.
- (4) COMMERCIAL means utility service provided to a business enterprise or a service address not primarily used as a residence.

(5) CUSTOMER means:

- (a) an individual, partnership, association, firm, public or private corporation, governmental authority, or other legal entity that receives City utility service at a service address;
- (b) an owner of property that is connected to the City's utility service at a service address; or
- (c) a person who receives the benefit of the City's utility service.

(6) CUSTOMER CARE means the division of the Austin Electric Utility that:

- (a) initiates and terminates City utility services;
- (b) regularly reads City utility meters;
- (c) regularly invoices utility services;
- (d) resolves billing problems and inquiries related to invoiced services; and
- (e) collects and manages utility service accounts receivable.

(7) CUSTOMER'S INSTALLATION means:

- (a) for an electric installation, the wiring, appliances, and equipment on a customer's side of the point of delivery used to receive electric service, excluding the City's meter installation;
- (b) for a water installation, the plumbing on a customer's side of the point of delivery used to receive water service, excluding the City's meter installation;
- (c) for a reclaimed water installation, the plumbing on a customer's side of the point of delivery used to receive reclaimed water service, excluding the City's meter installation; and
- (d) for a wastewater installation, the plumbing on customer's side of the point of delivery.

(8) MASTER METER means an electric, water, or reclaimed water meter that serves more than one residential unit or more than one commercial space.

- (9) **METER** means one or more mechanized or automated meters, including an auxiliary device, that measure the power and energy of electric service or quantity of water, reclaimed water, or wastewater service supplied to a customer at a single point of delivery.
- (10) **POINT OF DELIVERY** means:
- (a) for electric service, the end of City's drop or the point where the City's wires are joined to a customer's wires or equipment, except as otherwise specified in a customer's service contract;
  - (b) for water service, the water meter or the customer's property line if the meter is installed on the customer's property;
  - (c) for reclaimed water, the reclaimed water meter or the property line if the meter is installed on the customer's property;
  - (d) for wastewater service, the customer's property line or the edge of a wastewater or public utility easement at the location and elevation of the City service; and
  - (e) for solid waste service, the closest point to the curbline or pavement edge of the City's right-of-way.
- (11) **RESIDENTIAL** means service provided to a service address used primarily for a residential use.
- (12) **SERVICE ADDRESS** means a specific, unique address for a location eligible to receive City utility service, including a street name, house number, and, if applicable, a building or unit identification letter or number.
- (13) **SERVICE CONNECTION** means:
- (a) for electric service, the City-owned wires connecting the City's distribution facilities to a customer's service terminal;
  - (b) for water service, the City-owned pipes connecting the City's distribution facilities to a property owner's cut-off valve;
  - (c) for reclaimed water service, the City-owned pipes connecting the City's distribution facilities to the property owner's cut-off valve; and
  - (d) for wastewater service, the City-owned pipes connecting the City's collection facilities to a property owner's pipes.

- (14) **UNLAWFUL USE OF SERVICE** means the use of utility service by a person in violation of City, state, or federal law or regulation.
- (15) **UTILITY** means:
- (a) for electric service and other energy related products and services, the Austin Electric Utility;
  - (b) for water, reclaimed water, and wastewater service and other related products, the Austin Water Utility;
  - (c) for roadway services, the Public Works Department;
  - (d) for water and energy resource services, the Transportation, Planning, and Sustainability Department;
  - (e) for drainage service, the Watershed Protection and Development Review Department; and
  - (f) for solid waste services, the Solid Waste Services Department.
- (16) **UTILITY SERVICE** means:
- (a) for drainage service, providing or maintaining facilities to collect, convey, and treat stormwater runoff in the city;
  - (b) for electric service, making electric power and energy available to a customer, including non-metered outdoor lighting;
  - (c) for solid waste service, making available or providing garbage, trash, rubbish, miscellaneous waste collection and disposal, street cleaning and litter removal services in the city;
  - (d) for transportation services, providing and maintaining facilities for the City's transportation system;
  - (e) for water service, providing and maintaining facilities to make water available to a customer at the point of delivery;
  - (f) for reclaimed water service, providing and maintaining facilities to make reclaimed water available to a customer at the point of delivery; and
  - (g) for wastewater service, providing and maintaining facilities to make wastewater collection and treatment service available to a customer at the point of delivery.

(17) **UTILITY SERVICE DIVERSION** means a person's unauthorized action to divert utility service to:

- (a) prevent accurate measurement of utility usage;
- (b) receive the benefit of utility service without approval;
- (c) alter metering equipment preventing accurate meter readings and subsequent billings; or
- (d) alter utility account records or computer data to prevent accurate billings.

(18) **UTILITY DIVERSION CHARGE** means a charge, including damage fees and labor expenses based on the labor required, the damage to equipment, and the cost of testing metering equipment, for:

- (a) unauthorized tampering that damages City equipment; or
- (b) utility diversion or tampering that results in an investigation by the City.

*Source: 2003 Code Section 15-9-3; 1992 Code Section 18-4-003.*

#### **§ 15-9-2     APPLICABILITY.**

If there is a conflict or inconsistency between this chapter and an ordinance or Code provision outside this chapter regarding the operation of a utility with respect to service, charges, billing, or refunds, the other ordinance or Code provision prevails.

*Source: New.*

#### **§ 15-9-3     FEES AND CHARGES.**

(A) The council shall set rates, fees, and charges under this chapter by separate ordinance.

(B) Customer care shall identify each fee or charge on a utility invoice.

*Source: 2003 Code Sections 15-9-176 and 15-9-231; 1992 Code Section 18-4-255 and 18-4-320; Ord. No. 031211-3.*

**§ 15-9-4      CHANGES TO RATE SCHEDULE OR CLASSIFICATION.**

- (A) Before the council adopts a proposed change to a rate schedule or service classification, the City shall provide public notice of the proposal, including locations for public inspection.
- (B) On request, the City shall send a customer a brief explanation of the proposed change.
- (C) Not later than the 60<sup>th</sup> day after the council has adopted a change to a rate schedule or service classification, the City shall notify each affected class of customers of a new rate schedule or service classification. Notice under this subsection satisfies the requirement prescribed in Section 15-9-22 (*Availability and Distribution of Rate Schedules and Utility Service Regulations*).
- (D) If a customer is entitled to notice under Section 13.187 of the Texas Water Code, the City shall provide notice as prescribed by that section.

*Source: 2003 Code Section 15-9-13; 1992 Code Section 18-4-017.*

**§ 15-9-5      DEPOSIT OR BOND FOR INFRASTRUCTURE IMPROVEMENTS.**

- (A) The director of the Electric Utility shall assess a deposit or impose a bond requirement against a customer that requests electric utility service with an expected peak demand load of four megawatts or greater. The director of the Electric Utility and the customer shall agree on an estimated peak demand load under this section. The City is not liable for interest on any amount assessed or released under this section.
- (B) The director of the Electric Utility shall require a customer to provide a deposit or bond approved by the director in an amount equal to 50 percent of the costs, including labor and overhead, associated with estimated electric utility infrastructure improvements necessary to meet the customer's expected peak demand load. The customer shall provide the deposit or bond in addition to a contribution in aid of construction or other payment or fee required by a service contract.
- (C) The director of the Electric Utility shall release the customer's deposit or bond in full if, after 18 months from initiation of service, the customer's actual peak demand load has reached 90 percent or more of the estimated peak demand load over three consecutive billing cycles.
- (D) The director of the Electric Utility shall average the customer's actual peak demand load for the three highest consecutive billing cycles to determine the amount of the deposit or bond to be released to the customer if, after 18 months from initiation of service, the customer's actual peak demand load is at

least 50 percent, but less than 90 percent of the estimated peak demand load over three consecutive billing cycles. Under this subsection, the director of the Electric Utility shall release the customer's deposit or bond at a rate of 2.5 percent for each full percentage point the average actual peak demand load exceeds 50 percent of the estimated peak demand load. The customer shall forfeit the remainder of the deposit or bond to the Electric Utility.

- (E) The director of the Electric Utility shall retain the customer's deposit in full or shall collect against the full amount of the customer's bond if, after 18 months from initiation of service, the customer's actual peak demand load is less than 50 percent of the estimated peak demand load over three consecutive billing cycles.
- (F) The director of the Electric Utility and the customer may agree to a shorter or longer period of time under Subsections (C), (D) and (E).
- (G) Under Subsections (D) and (E), the director of the Electric Utility may not retain or collect more than the actual cost of labor, overhead, and materials associated with infrastructure improvements made to meet a customer's expected peak demand load.

*Source: 2003 Code Section 15-9-232; 1992 Code Section 18-4-321.*

#### **§ 15-9-6 CLAIMS BY CUSTOMERS.**

A person may file a claim for damages under this chapter with the city manager as prescribed by Article XII (*General Provisions*), Section 3 (*Notice of Claims*) of the City Charter.

*Source: 2003 Code Section 15-9-56; 1992 Code Section 18-4-080.*

#### **§ 15-9-7 LIMITATION ON CITY'S LIABILITY; RELEASE.**

- (A) The City is not liable to a customer or to any other person for property damage, personal injury, business damage, or other loss resulting from a negligent or non-negligent act of the City that causes an interruption or failure of water, reclaimed water, wastewater, or solid waste disposal service, a delay in commencing service, fluctuation of water or reclaimed water pressure, or wastewater service.
- (B) The City is not liable to a customer or to any other person, for property damage, personal injury, business damage, or other loss resulting from a power black-out, power brown-out, interruption or failure of electric service, delay in commencing service, low voltage, high voltage, power surges, or fluctuation of power voltage, wave form, or frequency, caused by a negligent or non-

negligent act of the City unless the damages are caused by the gross negligence or willful misconduct of the City.

- (C) A customer shall release and hold the City harmless for any damage, injury or loss described in this section.

*Source: 2003 Code Section 15-9-41; 1992 Code Section 18-4-060.*

**§ 15-9-8 NO WAIVER FOR MISSED DEADLINES.**

The City does not waive its right to terminate services or enforce this chapter if the City fails to act before a deadline established in this chapter.

*Source: 2003 Code Section 15-9-55; 1992 Code Section 18-4-079.*

**§ 15-9-9 CRITERIA MANUALS.**

The Utilities Criteria Manual and the Water and Wastewater Design Criteria Manual apply to utility service provided under the Code.

*Source: new.*

**ARTICLE 2. CUSTOMER SERVICE.**

**§ 15-9-21 NOTICE OF CUSTOMER'S RIGHTS.**

The City shall provide each customer with a summary of the customer's rights and the City's responsibilities under this chapter in a form designated by the council:

- (1) with the first invoice to a customer initiating service; and
- (2) not less frequently than once every two years.

*Source: 2003 Code Section 15-9-15; 1992 Code Section 18-4-019.*

**§ 15-9-22 AVAILABILITY AND DISTRIBUTION OF RATE SCHEDULES AND UTILITY SERVICE REGULATIONS.**

- (A) The City shall send each utility customer a summary of the current rate schedule applicable to each major class of customers for which a separate rate is established and the identity of a class whose rates are not summarized:

- (1) with the first invoice to a customer initiating service; and
- (2) not less frequently than annually.

- (B) The city clerk shall post a conspicuous notice in the city clerk's office stating that copies of the following are available for public inspection:



- (1) rate schedules;
- (2) utility fees and deposits schedule; and
- (3) utility service regulations.

- (C) The Austin Electric Utility, the Austin Water Utility, the Watershed Protection and Development Review Department, and the Solid Waste Services Department, shall make copies of the rate schedules available to a utility customer on request.

*Source: 2003 Code Sections 15-9-1(C), 15-9-12, and 15-9-115(B); 1992 Code Sections 18-4-001(C), 18-4-016, and 18-4-177(B).*

#### **§ 15-9-23 LIFE SUPPORT SYSTEM LIST.**

- (A) In this section, "life support system" means a device that requires electric or water service certified by a licensed physician as essential to sustain the life of a resident of a service address, including an iron lung, ventilator, or kidney dialysis machine.
- (B) The City shall maintain a list of service addresses at which a person with a reported and validated life support system receives service. Based on information provided by customers, the City shall update the list periodically, but not less frequently than annually.
- (C) A customer may request the City include the customer's service address on the life support system list by filing an application with the Electric Utility. To remain on the list, a customer with an authorized life support system must notify the City annually that the life support equipment is at the customer's service address.
- (D) An application under this section shall include:
- (1) documentation of the life support system, including written notice from doctor or medical institution;
  - (2) certification by a licensed physician that the equipment is essential to sustain the life of a resident at the service address;
  - (3) authorization for on-site inspection and validation of the equipment by City personnel both during an emergency and at other reasonable times; and
  - (4) the name and address of a relative or other contact person.

- (E) This section does not create liability for the City as a result of loss of service to a customer on a life support system.

*Source: 2003 Code Section 15-9-16; 1992 Code Section 18-4-020.*

**§ 15-9-24 COMPLAINT INVESTIGATION.**

- (A) The City shall investigate a complaint made by a person and inform the person of the results of the investigation.
- (B) A person may make a complaint to the City under this section in person, in writing, or by telephone.

*Source: 2003 Code Section 15-9-17; 1992 Code Section 18-4-021.*

**ARTICLE 3. UTILITY SERVICE.**

**§ 15-9-31 UTILITY SERVICE PROVIDED.**

- (A) The City shall provide utility service:
- (1) as authorized by this chapter, the rate schedule adopted by council, and other applicable City regulation;
  - (2) to a valid service address;
  - (3) at an approved point of delivery adjacent to a City utility facility;
  - (4) using the most direct route practicable from the City's utility facility to an approved point of delivery; and
  - (5) to a customer's installation that complies with applicable Code requirements.
- (B) If a customer requests a change to the customer's point of delivery, service capacity, or type of service, the customer shall:
- (1) pay the cost of the change as established by the rate schedule, including applicable fees; and
  - (2) if necessary, enter into or amend a service contract.
- (C) The City may refuse to provide utility service to a service address if the applicant owes money to the City for utility service previously provided to the applicant. The City may agree to provide utility service under this section if the applicant has entered into a deferred payment agreement.

*Source: 2003 Code Section 15-9-33; 1992 Code Section 18-4-052.*

### **§ 15-9-32 CONTINUITY OF SERVICE.**

- (A) The City shall use reasonable diligence to supply a customer with constant utility service but does not guarantee the service against an irregularity or interruption.
- (B) The City may interrupt a customer's utility service when necessary to repair, change, or relocate the City's equipment and facilities. The City is not liable for damage resulting from interrupted service for repair, change, or relocation.

*Source: 2003 Code Section 15-9-34; 1992 Code Section 18-4-053.*

### **§ 15-9-33 SERVICE ADDRESS REQUIRED.**

- (A) A customer within the city limits must obtain a service address from the Transportation, Planning, and Sustainability Department.
- (B) A customer shall post the customer's service address in a place that is visible from the street on which the structure or meter is located in compliance with Article 1 (*Building Code*), Division 1 (*Uniform Building Code and Local Amendments*) and Article 7 (*Uniform Fire Code*) of Chapter 25-12 (*Technical Codes*) of the Code.
- (C) The Transportation, Planning, and Sustainability Department shall:
  - (1) assign a service address to:
    - (a) property with legal tract status as determined by the Watershed Protection and Development Review Department; or
    - (b) a meter location not serving a residence or permanent place of business; and
  - (2) recognize an address in the City's utility service area that is assigned by another city.

*Source: 2003 Code Section 15-9-3(5); 1992 Code Section 18-4-003(5).*

### **§ 15-9-34 METER READING.**

If requested by a customer, the City shall inform the customer on how to read a City utility meter.

*Source: 2003 Code Section 15-9-14; 1992 Code Section 18-4-018.*

**§ 15-9-35 SERVICE CONTRACT CREATED.**

- (A) Except as provided in Subsection (B), a service contract is created when:
- (1) the City and a person execute a written service agreement;
  - (2) the City accepts a written, electronic, or verbal application for utility services;
  - (3) the City provides utility services to a person; or
  - (4) other circumstances that obligate a person to pay the City for utility service.
- (B) If a person who has not requested utility service is receiving service, the person may notify the City in writing within 72 hours after the person knows of the service to request that the City disconnect the service without incurring liability for utility service charges. If the City receives notice under this subsection later than 72 hours after the person knows the person is receiving services that were not requested, the person is liable for utility services charges provided by the City.
- (C) A service contract under this section includes:
- (1) a customer's duty to pay for utility services provided by the City on or before the invoice due date; and
  - (2) the City's duty to provide utility services to a customer who is not in arrears.

*Source: 2003 Code Sections 15-9-3(27) and 15-9-31; 1992 Code Section 18-4-003 and 18-4-050.*

**§ 15-9-36 CONTRACT TERM.**

A service contract between a customer and the City is in effect until the earlier of:

- (1) cancellation by the City or the customer; or
- (2) the expiration of the contract.

*Source: 2003 Code Section 15-9-32; 1992 Code Section 18-4-051.*

**§ 15-9-37 CUSTOMER'S RESPONSIBILITIES.**

- (A) A customer is responsible for utility service provided on the customer's side of the point of delivery, including:
- (1) excessive consumption caused by faulty equipment;
  - (2) damage caused by an open valve or circuit after service initiation; and
  - (3) a violation of this chapter, including utility service diversion, unlawful use of service, or damage to City utility equipment.
- (B) A customer who vacates a service address before providing the City with notice to cancel utility service is responsible for charges for utility service and violations of this chapter that occur before the City receives cancellation notice.
- (C) A customer shall convey to the City a perpetual right-of-way that is:
- (1) acceptable to the City;
  - (2) across the property owned or controlled by the customer;
  - (3) for the City's lines and line extensions, poles, or other equipment necessary or incidental to supply service to the customer; and
  - (4) at no cost to the City.
- (D) A customer shall:
- (1) maintain the customer's property to allow verification of the service address of the premises from the street; and
  - (2) provide the City, its agents, contractors, and employees safe and unobstructed access to the customer's property to allow the City to:
    - (a) use, maintain, remove, or replace City property;
    - (b) read a utility meter;
    - (c) trim or remove a tree or shrubbery that interferes with or creates a danger to a utility line or other City utility equipment;
    - (d) remove an object that interferes with or creates a danger to a utility line or other City utility equipment;
    - (e) inspect wiring, a plumbing system, a backflow method or assembly, or other equipment on a new or remodeled installation;

- (f) sample a wastewater discharge;
  - (g) obtain a water or reclaimed water sample; and
  - (h) take other action related to supplying service to the customer
- (E) A customer's service connections must be readily accessible to the City's service facilities. The City shall determine a service connection point based on the most direct route to City facilities. The City may relocate a service connection point if the City determines relocation is necessary.
- (F) A customer must reimburse the City for all costs incurred by the City resulting from the failure or refusal of the customer to comply with this section.
- (G) The City may disconnect utility service if a customer fails to maintain the customer's property as required by this section. The City is not liable for damage to the customer's property caused by City authorized maintenance of a right-of-way or meter installation.

*Source: 2003 Code Section 15-9-35; 1992 Code Section 18-4-054.*

#### **§ 15-9-38 TRANSFER OF SERVICE.**

An existing customer requesting that the City transfer the customer's utility service from the current service address to a new service address shall comply with Article 4 (*Application for Utility Service*) and Article 5 (*Credit Security*) based on the type of service requested at the new location.

*Source: 2003 Code Section 15-9-142; 1992 Code Section 18-4-216.*

#### **§ 15-9-39 NOTICE OF CUSTOMER CANCELLATION.**

- (A) If a customer vacates a service address, the customer must give the City notice before the date the customer wants utility service to be disconnected.
- (B) A customer is responsible for utility service provided by the City to the customer's service address until the later of the date that the City:
- (1) receives notice of cancellation;
  - (2) disconnects service; or
  - (3) closes the customer's account.

*Source: 2003 Code Section 15-9-141; 1992 Code Section 18-4-215.*

**§ 15-9-40 REMEDIES FOR A CUSTOMER'S FAILURE TO COMPLY WITH A SERVICE CONTRACT.**

- (A) If a customer fails to comply with the terms of a service contract, the City may:
- (1) disconnect service under Article 7 (*Termination of Service*);
  - (2) cancel a service contract; or
  - (3) take other action authorized by law.
- (B) If a customer fails to pay for City utility service, the City may obtain payment from the customer or another person as authorized by Texas law.

*Source: 2003 Code Sections 15-9-38 and 15-9-39; 1992 Code Sections 18-4-057 and 18-4-058.*

**ARTICLE 4. APPLICATION FOR UTILITY SERVICE.**

**§ 15-9-51 WHERE TO APPLY FOR UTILITY SERVICE.**

- (A) A person requesting City utility service shall apply to customer care or to the Water Utility for reclaimed water service.
- (B) An eligible customer who seeks to participate in the continuous electric service program must sign a service contract approved by the City. Utility service is governed by the service contract and this chapter.

*Source: 2003 Code Section 15-9-71; 1992 Code Section 18-4-100; Ord. No. 031211-03.*

**§ 15-9-52 APPLICATION REQUIRED.**

- (A) An applicant for residential or commercial utility service may make a written, verbal, or electronic application. At the discretion of customer care, an applicant for residential or commercial utility service may receive utility service without entering into a written service contract.
- (B) An applicant shall execute a service application or service contract on the form approved by the utility for:
- (1) commercial service;
  - (2) standby or supplementary service;
  - (3) non-metered outdoor lighting;

- (4) fire suppression;
  - (5) a service requiring a branch from or continuation of an existing electric line to the point of delivery to customer including:
    - (a) an increase in capacity of an existing City facility or a change to an electric line to meet a customer's requirements; and
    - (b) each transformer, service connection, and meter;
  - (6) wholesale water or wastewater service; or
  - (7) other service at the discretion of the director of a utility.
- (C) Except for irrigation purposes, an applicant for a water service connection to a property with an existing water service connection shall execute a multi-service contract on the form approved by the director of the Water Utility.

*Source: 2003 Code Sections 15-9-3(10) and 15-9-31; 1992 Code Sections 18-4-003 and 18-4-050.*

#### **§ 15-9-53 IDENTIFICATION REQUIRED.**

- (A) Customer care shall develop guidelines establishing exceptions to the identification requirements under this section. Customer care may grant an exception to the requirements of this section based on the guidelines.
- (B) Except as provided in Subsection (C), an applicant for residential service shall provide one of the following forms of identification:
- (1) a verifiable driver's license, including a photograph, issued by a state or territory of the United States;
  - (2) a verifiable identification card, including a photograph, issued by a state or territory of the United States; or
  - (3) a social security card.
  - (4) An applicant who cannot produce the identification required by Subsection (B) may obtain utility service by providing proof of a valid, official government-issued identification, including a photograph, issued by a foreign government that conforms to the guidelines adopted under Subsection (A).



(C) An applicant for commercial service shall provide a Federal tax identification number.

(D) An applicant who fails to comply with this section may be denied service.

*Source: 2003 Code Section 15-9-72; 1992 Code Section 18-4-101.*

#### **§ 15-9-54 CREDIT SECURITY REQUIRED.**

An applicant for utility service must comply with the requirements of Article 5 (*Credit Security*) before the City may establish utility service.

*Source: 2003 Code Section 15-9-73; 1992 Code Section 18-4-102.*

#### **§ 15-9-55 FEES AND PAYMENT.**

(A) In addition to establishing credit security, an applicant for service must pay all applicable fees prescribed by ordinance.

(B) A person shall pay fees when the City sends the person an invoice.

(C) A person must pay fees, a deposit, or other charge in United States currency, or with a personal check, a traveler's check, a money order, a cashier's check, electronic funds transfer, a debit card, a credit card, or other method approved by customer care.

*Source: 2003 Code Section 15-9-75; 1992 Code Section 18-4-104; Ord. No. 031211-3.*

#### **§ 15-9-56 VERIFICATION OF RIGHT OF OCCUPANCY.**

The City may require an applicant for utility service to produce verifiable proof of the applicant's right to occupy a service address, including a date of occupancy, before the City establishes or reconnects utility service for the customer at the service address.

*Source: 2003 Code Section 15-9-74; 1992 Code Section 18-4-103.*

#### **§ 15-9-57 DOCUMENTATION FOR COMMERCIAL SERVICE.**

The City may require an applicant for commercial service to provide verifiable documentation of the applicant's authority to contract for the entity requesting service before the City establishes or reconnects commercial utility service.

*Source: 2003 Code Section 15-9-76; 1992 Code Section 18-4-105.*

## **ARTICLE 5. CREDIT SECURITY.**

### **§ 15-9-71 CREDIT SECURITY AUTHORIZED.**

The City may:

- (1) require a customer to give, maintain, or re-establish credit security for a service address or account;
- (2) require that a customer of a non-City owned water district meet the credit security policy and procedures established by the district; and
- (3) establish utility customer payment standards, including the minimum payment practices a utility customer must meet instead of providing other forms of credit security.

*Source: 2003 Code Sections 15-9-3(11) and 15-9-101; 1992 Code Sections 18-4-003 and 18-4-150.*

### **§ 15-9-72 FORMS AND AMOUNT OF CREDIT SECURITY FOR RESIDENTIAL SERVICE.**

If a residential customer or applicant provides proof of identification under Section 15-9-53 (*Identification Required*), the City may accept the following forms of credit security:

- (1) a record of satisfactory compliance with Section 15-9-74 (*Customer Payment Standards*), if applicable, and no outstanding utility invoices;
- (2) a letter of reference from another electric, gas, or water utility with no record of late payments or outstanding balance, and no disconnections for non-payment during the last twelve consecutive billing cycles; or
- (3) a refundable [cash] deposit equal to the greater of:
  - (a) \$200; or
  - (b) one-sixth of the average or estimated annual billing at the service address for the previous 12 months as determined by customer care.

*Source: 2003 Code Section 15-9-102; 1992 Code Section 18-4-151.*

### **§ 15-9-73 FORMS AND AMOUNT OF CREDIT SECURITY FOR COMMERCIAL SERVICE.**

The City may accept the following forms of credit security from a commercial customer or applicant for commercial service:

- (1) a record of satisfactory compliance with customer payment standards for service at a comparable commercial service address served by the City;
- (2) a letter of reference from another electric, gas, or water utility stating that commercial service was provided within the preceding 24 consecutive months with no record of a past due balance, and that the applicant's service was not disconnected during that period;
- (3) a refundable deposit of one-sixth of the average annual or estimated billing at the same or a comparable commercial service address for the previous 12 months as determined by customer care; or
- (4) for construction purposes only, a refundable deposit in an amount determined by the Electric Utility.

*Source: 2003 Code Sections 15-9-103 and 15-9-143(A); 1992 Code Sections 18-4-152 and 18-4-217(A).*

### **§ 15-9-74 TRANSFER OF CREDIT SECURITY.**

If an existing customer requests a transfer to a new service address, customer care may:

- (1) require an additional deposit or credit security if the credit security requirement at a new service address is higher than at an existing customer's previous service address; or
- (2) continue the existing credit security agreement if the customer has no record of late payment, unlawful use of service, or utility service diversion.

*Source: 2003 Code Sections 15-9-103 and 15-9-143(A); 1992 Code Sections 18-4-152 and 18-4-217(A).*

### **§ 15-9-75 CUSTOMER PAYMENT STANDARDS.**

(A) To establish compliance with customer payment standards, a residential customer must:

- (1) have received utility service from the City for not fewer than 12 consecutive billing cycles;

- (2) have paid each utility invoice before its due date during the preceding 12 calendar months;
  - (3) not have submitted a payment returned for insufficient funds; and
  - (4) not have committed unlawful use of service or utility service diversion.
- (B) To establish compliance with customer payment standards, a commercial customer must:
- (1) have received comparable commercial utility service from the City for not fewer than 24 consecutive billing cycles;
  - (2) have paid each utility invoice before its due date during the preceding 24 calendar months;
  - (3) not have submitted a payment returned for insufficient funds; and
  - (4) not have committed unlawful use of service or utility service diversion.

*Source: 2003 Code Section 15-9-104; 1992 Code Section 18-4-153.*

#### **§ 15-9-76 USE AND REPLACEMENT OF SECURITY DEPOSIT.**

- (A) If the City determines that an existing customer's payment practices create a financial risk to the City, it may:
- (1) apply the customer's security deposit plus accrued interest to the customer's outstanding utility account balance; and
  - (2) require the customer to pay a new security deposit equal to the greater of:
    - (a) \$300; or
    - (b) three times the average or estimated monthly utility invoice for the service address for the previous 12 months as determined by customer care.

- (B) The City may disconnect a customer's utility service if the customer fails to pay a new security deposit under this section.

*Source: New.*

#### **§ 15-9-77 TRANSFER OR REFUND OF DEPOSITS.**

- (A) A customer's deposit earns simple annual interest at the rate effective on October 1 of each year. The interest rate under this section is equal to 85

percent of the average yield of the 90-day United States Treasury Bills issued during the preceding twelve month period ending June 30 of each year.

- (B) If a customer transfers utility service, the City may transfer the customer's deposit to the customer's new account as prescribed by Section 15-9-74 (*Transfer of Credit Security*).
- (C) The City shall refund a customer's deposit, including interest earned, to the customer if:
  - (1) the customer establishes a record of satisfactory compliance with the payment standards prescribed by Section 15-9-75 (*Customer Payment Standards*); or
  - (2) the customer discontinues all City utility accounts and pays all outstanding utility invoices.
- (D) The City may apply a customer's deposit to an unpaid invoice before the City refunds the balance of the deposit to the customer.
- (E) The City shall keep a record of unclaimed deposits and shall make a reasonable effort to return deposits.

*Source: 2003 Code Section 15-9-106; 1992 Code Section 18-4-155.*

#### **§ 15-9-78 CUSTOMER'S FAILURE TO COMPLY WITH CREDIT SECURITY REQUIREMENTS.**

If a customer fails to comply with credit security requirements, the City may disconnect the customer's service as prescribed by Article 7 (*Termination of Service*).

*Source: 2003 Code Section 15-9-107; 1992 Code Section 18-4-156*

### **ARTICLE 6. DENIAL OF SERVICE.**

#### **§ 15-9-91 GROUNDS FOR DENIAL OF UTILITY SERVICE.**

The City may deny an application for utility service or refuse to establish utility service if:

- (1) the applicant is not in compliance with:
  - (a) the state, federal or municipal regulations relating to the utility service applied for; or

- (b) Section 15-9-37 (*Customer's Responsibilities*), Article 4 (*Application for Utility Service*), or Article 5 (*Credit Security*) of this chapter;
- (2) the applicant responsible for payment of utility service under Section 15-9-40 (*Remedies for a Customer's Failure to Comply with a Service Contract*) has an outstanding utility invoice, excluding an invoice subject to a hearing under Article 12 (*Administrative Review and Hearing*);
- (3) the applicant's installation or equipment creates a hazard or cannot be connected to utility service; or
- (4) the building or structure to be served:
  - (a) does not comply with the Chapter 25-12 (*Technical Codes*), Chapter 15-1 (*Cross Connection Regulations*), or Chapter 15-10 (*Wastewater Regulations*) of the Code;
  - (b) is not connected with the City's distribution or collection facilities;
  - (c) is outside the City's defined service area or impact fee area or the applicant has not paid the impact fee; or
  - (d) is not on a legal tract as determined by the Watershed Protection and Development Review Department.

*Source: 2003 Code Section 15-9-91; 1992 Code Section 18-4-120.*

#### **§ 15-9-92 DENIAL BASED ON TRANSFER TO AVOID PAYMENT.**

If the City believes that an applicant is applying for service at a service address where the current customer is in arrears primarily to allow the current customer to avoid payment of a past due invoice, the City may deny the application for service.

*Source: new.*

#### **§ 15-9-93 RIGHT OF APPEAL.**

- (A) If the City denies an application for utility service under this chapter, the City shall provide the applicant notice of the denial, including the basis of the denial.
- (B) An applicant denied utility service may appeal the decision as provided in Article 12 (*Administrative Review and Hearing*).

*Source: 2003 Code Section 15-9-92; 1992 Code Section 18-4-121.*

## **ARTICLE 7. TERMINATION OF SERVICE.**

### **§ 15-9-101 BASIS FOR TERMINATION OF SERVICE.**

(A) The City may disconnect a customer's utility service without notice:

- (1) at the request of the customer, on or before the third day after the date the customer requests the termination;
- (2) if the City determines that there is:
  - (a) utility service diversion;
  - (b) a dangerous condition that creates a threat to public health, safety, or property;
  - (c) an unlawful use of service;
  - (d) a violation of a City ordinance, or state regulation relating to sub-metering of utility service;
  - (e) fraud in obtaining utility service; or
  - (f) a violation of Article 4 (*Electrical Code*) or Article 11 (*Residential Code*) of Chapter 25-12 (*Technical Codes*), Chapter 15-10 (*Wastewater Regulations*), or Chapter 15-1 (*Cross Connection Regulations*) of the Code, or a City ordinance relating to utility service;
- (3) under Subsection 15-9-103(B) (*Termination of Service for Insufficient Funds Payment*); or
- (4) under Section 15-9-105 (*Termination Request by Non-City Utility*)

(B) The City may disconnect a customer's utility service after notifying the customer, if

- (1) the customer fails to:
  - (a) visibly post the service address on a structure or meter location;
  - (b) pay a delinquent utility account balance;
  - (c) comply with the terms of a deferred payment agreement;
  - (d) comply with credit security requirements;

(e) connect to the City's distribution or collection facilities as required by Section 15-9-173 (*Relocation of City Distribution or Collection Facility*); or

(f) comply with Section 15-9-37 (*Customer's Responsibilities*); or

(2) the customer installs or operates equipment that interferes with utility service to another person.

(C) The City may disconnect a customer's water and wastewater service in the City's extra-territorial jurisdiction as authorized by Section 13.250 (*Continuous and Adequate Service; Discontinuance, Reduction, or Impairment of Service*) of the Texas Water Code.

*Source: 2003 Code Sections 15-9-161 and 15-9-171; 1992 Code Sections 18-4-240 and 18-4-250.*

#### **§ 15-9-102 TERMINATION FOR DEFAULT ON DEFERRED PAYMENT AGREEMENT.**

If a customer fails to meet the terms of a deferred payment agreement, the City:

(1) may disconnect the customer's utility service as provided in Article 7 (*Termination of Service*); and

(2) may refuse to allow the customer to negotiate a subsequent deferred payment agreement before the customer's utility service is disconnected.

*Source: 2003 Code Section 15-9-134; 1992 Code Section 18-4-203.*

#### **§ 15-9-103 TERMINATION OF SERVICE FOR INSUFFICIENT FUNDS PAYMENT.**

(A) The City may disconnect utility service to a customer's account if the customer's payment has been returned for a reason other than a verifiable vendor error.

(B) The City may immediately disconnect utility service without notice if the customer pays for restored service with a payment method that is returned for insufficient funds.

(C) The City shall proceed with collection activities and utility service disconnection if a customer pays for service with a payment method that is returned for insufficient funds.



- (D) If a customer has made two payments during the preceding 12 billing cycles that have been returned for insufficient funds, the City may not accept a customer's personal check, credit card payment, or electronic funds transfer as payment on the account and may require the customer to pay in cash, by certified check, or by money order for up to 12 billing cycles.

*Source: New.*

**§ 15-9-104 TERMINATION AND CHARGES FOR UTILITY SERVICE DIVERSION, UNLAWFUL USE OF SERVICE AND DAMAGE TO CITY EQUIPMENT.**

- (A) If a customer benefits from utility service diversion, unlawful use of service, or damage to City utility equipment, the City may:
- (1) immediately disconnect the customer's service as provided in Article 7 (*Termination of Service*); and
  - (2) request that the appropriate official prosecute the customer under applicable law.
- (B) If a person commits, allows another person to commit, or benefits from utility service diversion, unlawful use of service, or damage to City utility equipment, the City may collect payment from the person equal to:
- (1) the estimated costs of electricity, water, reclaimed water, and wastewater services not recorded on a meter and charged to the customer under the applicable rate schedule; and
  - (2) utility diversion charges.
- (C) The City may impound equipment or property used by a person for utility service diversion, unlawful use of service, or damage to City utility equipment without compensating the owner of the equipment or property.

*Source: 2003 Code Section 15-9-118; 1992 Code Section 18-4-182.*

**§ 15-9-105 TERMINATION REQUEST BY NON-CITY UTILITY.**

The City may terminate water utility service to a customer who receives wastewater utility service from a non-city utility as prescribed by Section 291.88 (*Discontinuance of Service*) of Title 30 (*Environmental Quality*) of the Texas Administrative Code and Section 13.250 (*Continuous and Adequate Service; Discontinuance, Reduction, or Impairment of Service*) of the Texas Water Code if:

- (1) The City and the non-city utility have a written agreement relating to disconnecting water service, including the non-city utility's obligation to

communicate with its customer regarding the disconnection and the customer's right to a hearing, if any; and

- (2) The non-city utility has notified its customer and the City that water service may be disconnected for non-payment of wastewater charges.

*Source: New.*

#### **§ 15-9-106 NOTICE OF SERVICE DISCONNECTION.**

- (A) Except as provided in Subsection (B), the City shall notify a customer if the City intends to disconnect the customer's utility service.
- (B) The City is not required to provide notice of service disconnection to a person whose service is being disconnected under Section 15-9-105 (*Termination Request by Non-City Utility*).
- (C) Notice under this section:
  - (1) may be delivered by mail, hand delivery, electronic transmission, or telephone, either by pre-recorded message or in person;
  - (2) shall be available in both English and Spanish; and
  - (3) shall include:
    - (a) the reason for the proposed disconnection;
    - (b) if applicable, notice of the customer's right to a hearing before service is disconnected, including that the customer must request a hearing in writing on or before the due date of the notice;
    - (c) the date of the proposed disconnection, excluding a holiday or weekend; and
    - (d) if in writing, prominent notice that the document is a disconnection notice.

*Source: 2003 Code Section 15-9-172; 1992 Code Section 18-4-251.*

#### **§ 15-9-107 RESTRICTIONS ON TERMINATION OF SERVICE.**

The City may not disconnect utility service if:

- (1) a customer fails to pay a invoice disputed under Article 12 (*Administrative Review and Hearing*) before a final determination is made by a hearing officer;

- (2) a customer fails to pay an estimated invoice that was not produced by an approved meter reading plan, unless:
  - (a) the City is unable to read the meter due to circumstances beyond its control; or
  - (b) an invoice based on meter readings for the utility service is provided to the customer;
- (3) the previous customer at the service address is delinquent in payment, unless the current customer is also liable for the service under this chapter or state law; or
- (4) disconnection is prohibited by Section 13.250 (*Continuous and Adequate Service; Discontinuance, Reduction, or Impairment of Service*) of the Texas Water Code.

*Source: 2003 Code Section 15-9-162; 1992 Code Section 18-4-241.*

#### **§ 15-9-108 RESTRICTIONS DURING TERM OF DEFERRED PAYMENT AGREEMENT.**

The City may not disconnect the utility service of a customer who is making payments under a deferred payment agreement, if the customer:

- (1) makes the preliminary payment specified in the agreement;
- (2) pays the balance of the customer's current invoice on or before the due date; and
- (3) makes the remaining payments specified in the agreement on or before the due dates.

*Source: 1992 Code Section 18-4-202.*

#### **§ 15-9-109 RESTRICTIONS DURING EXTREME WEATHER CONDITIONS.**

- (A) The City may place an extreme weather moratorium on disconnecting residential utility service for nonpayment if the National Weather Service reports a temperature or temperature forecast that:
  - (1) the average daily temperature is 32 degrees Fahrenheit or below or the average daily temperature is predicted to be 32 degrees Fahrenheit or below for more than 24 consecutive hours during the winter; or

- (2) the temperature is at or above 100 degrees Fahrenheit for five consecutive days and the temperature is forecast to reach or exceed 100 degrees Fahrenheit for the next five days.

- (B) If the City places an extreme weather condition moratorium, it is not required to restore previously disconnected utility service unless the customer complies with this chapter.

*Source: 2003 Code Sections 15-9-3(14) and 15-9-174(C); 1992 Code Sections 18-4-003 and 18-4-253(C).*

#### **§ 15-9-110 RESTRICTIONS FOR LIFE SUPPORT SYSTEM.**

- (A) After notice is provided under Section 15-9-106 (*Notice of Service Disconnection*) and within 10 days before the City disconnects utility service at a service address where a life support system is registered, the City shall make not fewer than two additional attempts to notify the customer that service may be disconnected. Notice under this section may be delivered by mail, hand delivery, electronic transmission, or telephone, either by pre-recorded message or in person.
- (B) If the City is unable to contact the customer after three attempts, the City may disconnect the customer's utility service.

*Source: 2003 Code Sections 15-9-3(16) and 15-9-174(A); 1992 Code Sections 18-4-003 and 18-4-253(A).*

#### **§ 15-9-111 RESTRICTIONS FOR MASTER METER SERVICE.**

- (A) After notice is provided under Section 15-9-106 (*Notice of Service Disconnection*) and before the City disconnects utility service to a building containing two or more separately occupied residential units invoiced as a single account, the City shall provide notice in writing or by telephone to each non-customer occupant that service may be disconnected without further notice on or after the third day following the date of the notice.
- (B) Notice under this section shall include:
  - (1) the amount of the past due balance on the customer's account;
  - (2) the disconnection date; and
  - (3) an explanation of the occupant's ability to pay the customer's past due account to avoid disconnection or to restore utility service.

- (C) Payment of a customer's past due account by a non-customer occupant does not release the customer from the customer's duty to pay other charges and penalties under this chapter, including future invoices for current utility service.

*Source: 2003 Code Section 15-9-174(B); 1992 Code Section 18-4-253(B).*

#### **§ 15-9-112 RESTORATION OF SERVICE.**

- (A) The City shall restore disconnected service within a reasonable time, if the customer pays the full balance of the customer's utility account or enters into a deferred payment agreement and delivers proof of payment and a request for reconnection to customer care.
- (B) If the City has disconnected service because of utility service diversion, unlawful use of service, or damage to City utility equipment, before the City restores utility service, the City may require the customer to pay:
  - (1) the estimated cost of electricity, water, reclaimed water, or wastewater services not recorded on a meter; and
  - (2) utility diversion charges.
- (C) Before the City restores disconnected utility service, the City shall:
  - (1) require a customer to provide credit security on the customer's utility account as prescribed by Section 15-9-54 (*Credit Security Required*); and
  - (2) charge a customer applicable fees.

*Source: 2003 Code Section 15-9-175; 1992 Code Section 18-4-254.*

#### **§ 15-9-113 AVAILABILITY OF UTILITY PERSONNEL.**

- (A) Except as provided in Subsection (B), the City shall disconnect utility service on a day when utility personnel are available to restore service during that day and until noon on the next day.
- (B) The City may disconnect utility service at any time if necessary to prevent or correct a condition that creates a danger or threat to public health, safety, or property, or that results from unlawful use of service, utility diversion, damage to City utility equipment, unauthorized sale of utility service, or a violation of law.

*Source: 2003 Code Section 15-9-177; 1992 Code Section 18-4-256.*

## **ARTICLE 8. RESTRICTIONS ON USE OF UTILITY SERVICE.**

### **§ 15-9-121 REMETERING AND RESALE OF SERVICE.**

- (A) A customer shall comply with the regulations adopted by the Texas Public Utility Commission and the Texas Commission on Environmental Quality if the customer resells utility services.
- (B) A customer may not remeter or resell utility service provided by the City except as authorized by the City.
- (C) A retail customer may not remeter or resell utility service provided by the City at a higher price than the price charged to the customer by the City.
- (D) After notice, the City may disconnect utility service to a customer who is remetering or reselling utility service in violation of this section.

*Source: 2003 Code Section 15-9-36; 1992 Code Section 18-4-055.*

### **§ 15-9-122 UNAUTHORIZED USE OF UTILITY SERVICES PROHIBITED.**

- (A) A person, including a City employee, may not alter, benefit from, or permit the alteration of utility equipment, utility services, utility records, or utility charges, except as authorized under this chapter.
- (B) The City may:
  - (1) investigate suspected violations of utility regulations;
  - (2) correct unsafe conditions caused by a violation;
  - (3) collect undercharged utility costs and related fees and charges; and
  - (4) if necessary, seek legal remedies.
- (C) This chapter is cumulative of other regulation and enforcement proceedings relating to utility service diversion, unlawful use of service, and damage to City equipment.

*Source: 2003 Code Section 15-9-40; 1992 Code Section 18-4-059.*

### **§ 15-9-123 UNAUTHORIZED SERVICE TO ADJACENT PROPERTY PROHIBITED.**

- (A) Except as provided in Subsection (B), a customer may not extend or connect the customer's installation to a utility line to obtain service for property

adjacent to a metered service address through the authorized meter even if the adjacent property is owned, controlled, or occupied by the customer.

- (B) A customer who owns adjacent properties may extend or connect the customer's installation across or under adjacent property lines if the installation complies with the requirements of Title 25 (*Land Development Code*) for unified developments and applicable utility design criteria.
- (C) If the City determines that a customer has extended unauthorized service to an adjacent property, the City may disconnect service to the customer 24 hours after the City has given the customer notice of the violation. The City may not reconnect service until it has determined that the unauthorized connection has been removed.

*Source: 2003 Code Section 15-9-37; 1992 Code Section 18-4-056.*

## **ARTICLE 9. INVOICE AND PAYMENT REQUIREMENTS.**

### **§ 15-9-131 DETERMINATION OF BILLING CYCLES.**

The City shall provide a utility invoice to a utility customer at a regular monthly interval or at a different interval as determined necessary by the City.

*Source: 2003 Code Section 15-9-111; 1992 Code Section 18-4-175*

### **§ 15-9-132 ELECTRIC, WATER, AND WASTEWATER INFORMATION REQUIRED ON UTILITY INVOICE.**

- (A) This section applies to a charge for electric, water, or wastewater service.
- (B) The City shall include the following information on a utility customer's invoice:
  - (1) the date and meter reading at the beginning and at the end of the billing cycle;
  - (2) the number and kind of units metered, including gallons of water, or wastewater or kilowatt hours or kilowatts of electricity;
  - (3) the applicable rate classification;
  - (4) separate charges for electric service and fuel, if described separately in the rate ordinance;

- (5) the total amount due for electricity and tax, water, wastewater, or other services, plus the amount of late payment penalty that may be assessed;
  - (6) the invoice payment due date; and
  - (7) if an invoice includes an estimate, a statement that part or all of the invoice is estimated.
- (C) The City shall present the required information in a format that permits a customer to compute the customer's invoice by applying the applicable rate schedule.

*Source: 2003 Code Section 15-9-113; 1992 Code Section 18-4-177.*

### **§ 15-9-133 METERED UTILITY SERVICE.**

- (A) The City shall separately meter and calculate the charge for a customer's electric and water service, except services that are invoiced under Sections 15-9-134 (*Meter Totalization*) or 15-9-136 (*Calculation of Wastewater Billing*).
- (B) A utility may use a daily automated reading from an automated utility meter if a customer requests:
- (1) utility service be turned on or off;
  - (2) the meter be re-read;
  - (3) service for which a meter reading is required; or
  - (4) other action requiring a meter reading.

*Source: 2003 Code Section 15-9-112(A); 1992 Code Section 18-4-176(A).*

### **§ 15-9-134 METER TOTALIZATION.**

- (A) In this section, "meter totalization" means a billing function that combines and invoices simultaneous readings from eligible electric meters as if the readings were generated by a single meter.
- (B) The director of the Electric Utility may allow or require meter totalization of a customer's meters only if:
- (1) the meters serve a single building, unless Subsection (B)(3)(c) applies;
  - (2) each meter independently qualifies for the same electric rate; and
  - (3) the director determines:



- (a) the customer receives a special utility service, including dual feed, that requires more than one electric meter for the building;
  - (b) the customer is the sole occupant of the entire building and the building was served by more than one electric meter before the customer's occupancy; or
  - (c) because of special engineering considerations, the electric utility requires the customer to have more than one electric meter for a building or group of buildings to which the electric utility would normally provide service through only one meter.
- (C) A single building under Subsection (B)(1) does not include an attached parking garage or structure connected to the building by a walkway, atrium, or other space that is not a characteristic commercial area.
- (D) The director of the Electric Utility shall have sole discretion in making the determination that a structure is a single building under Subsection (B)(1) or if a customer meets the requirements of Subsection (B)(3).
- (E) The director may not include a meter that primarily serves equipment located on the exterior of a building in a meter totalization.
- (F) For each invoice utilizing meter totalization, the electric utility shall add together the kilowatt hour and demand readings from each eligible meter so that:
- (1) the total kilowatt hours consumed through the meters are invoiced as if they were consumed through a single meter;
  - (2) the total billing demand is calculated at the fifteen-minute interval of greatest combined use; and
  - (3) the power factor adjustment is calculated using the total billing demand and interval of greatest combined use determined under Subsection (F)(2).

*Source: 2003 Code Sections 15-9-3(19) and 15-9-217; 1992 Code Sections 18-4-003 and 18-4-306.*

### **§ 15-9-135 MULTIFAMILY RESIDENTIAL UTILITY SERVICE RATE.**

The water utility may charge the multi-family retail water and wastewater service rates to a primarily residential use building or facility that is served by a master water meter and has two or more residential units:

- (1) including a duplex, triplex, fourplex, apartment complex, townhouse, condominium, or loft; and
- (2) excluding a hotel, motel, nursing home, convalescent home, health center, retirement complex, dormitory, or other similar commercial use.

*Source: New.*

### **§ 15-9-136 CALCULATION OF WASTEWATER BILLING.**

- (A) The City shall calculate the wastewater invoice for a customer's service address by:
  - (1) multiplying the volume of wastewater discharged from the service address by the wastewater rate for the applicable customer class; and
  - (2) adding the applicable monthly customer account charge, if any, and other applicable fees and charges.
- (B) Except as provided by Subsections (C) and (D), the director of the Water Utility shall assess the volume of wastewater discharged from the customer's service address at the lower of:
  - (1) the customer's wastewater average as determined by separate ordinance; or
  - (2) the monthly water consumption at the service address.
- (C) If a customer is approved for evaporative loss adjustments under Article 14 (*Wastewater Billing Adjustments for Evaporative Cooling Towers*), the City shall assess the volume of wastewater discharged from the customer's service address as prescribed by that article.
- (D) If a customer has installed a wastewater flow metering system approved under Article 15 (*Metered Wastewater Billing*), the City shall assess the volume of wastewater discharged from the customer's service address as prescribed by that article.

*Source: 2003 Code Sections 15-9-112(B), (C), (D), and (E); 1992 Code Sections 18-4-176(B), (C), (D), and (E).*

### **§ 15-9-137 PAYMENT REQUIREMENTS AND LATE PAYMENT PENALTY.**

- (A) A customer shall pay each invoice for utility service on or before the payment due date. A customer's failure to receive an invoice does not modify the customer's duty to pay for utility services.
- (B) The City shall apply a customer's payments sequentially based on the earliest outstanding payment due date.
- (C) Except as otherwise limited by contract, if customer care does not receive full payment by the payment due date on an invoice, a five percent late payment penalty shall be added to the invoiced electric, water, reclaimed water, and wastewater charges.
- (D) A late payment penalty under this section shall be assessed during the next billing cycle and be included in the next invoice for utility services.

*Source: 2003 Code Section 15-9-114; 1992 Code Section 18-4-178.*

### **§ 15-9-138 DELINQUENCY.**

- (A) A customer's utility account is delinquent if customer care has not received payment in full of the customer's utility invoice on or before the invoice due date.
- (B) If a customer's utility account is delinquent, the City may disconnect service to the customer's service address as prescribed by Article 7 (*Termination of Service*).

*Source: 2003 Code Section 15-9-117; 1992 Code Section 18-4-181.*

### **§ 15-9-139 RETURNED PAYMENT FEE.**

- (A) The City may assess a returned payment fee each time a customer's check, credit card payment, or electronic funds transfer is returned unpaid for a reason other than a verified vendor error.
- (B) The City shall charge the amount of the returned payment and the returned payment charge to the customer's account.
- (C) A customer must pay a returned payment fee assessed under this section as prescribed in Article 9 (*Invoice and Payment Requirements*).

*Source: 2003 Code Section 15-9-119; 1992 Code Section 18-4-183.*

## **§ 15-9-140 BILLING ADJUSTMENTS.**

(A) In this section:

- (1) **ACTIVE ACCOUNT** means utility service is available to the service address for the account.
- (2) **INACTIVE ACCOUNT** means all utility service is disconnected for a customer at the service address for the account.

(B) If the City determines that it has undercharged, overcharged, or applied an incorrect rate to a utility account, the City shall:

- (1) charge the customer the amount of the unpaid charge; or
- (2) refund to the customer most recently served by the meter the amount of the excess payment limited as provided by Section 16.004 (*Four-year Limitations Period*) of the Texas Civil Practices and Remedies Code or other applicable state law.

(C) The City shall calculate an undercharge or overcharge at the rate in effect at the time of the original assessment.

(D) The City shall adjust a wastewater charge for the same time period as a charge for water.

(E) The City may transfer a balance owed from a customer's inactive account to the customer's active account.

(F) The City may invoice a customer for the amount of an undercharge resulting from a person's meter tampering, bypass, an un-metered connection, or diversion beginning on the date of the unauthorized use.

(G) If the amount of an undercharge equals or exceeds \$100, the City may agree to allow the customer to make payments under a deferred payment agreement not to exceed the duration of the undercharge. But, if the undercharge is the result of utility service diversion, unlawful use of service, or damage to City utility equipment, the City is not required to allow the customer to make payments under a deferred payment agreement.

*Source: 2003 Code Sections 15-9-3(1) and 15-9-115; 1992 Code Sections 18-4-003 and 18-4-179.*

#### **§ 15-9-141 ACCOUNT ADJUSTMENT BASED ON METER FAILURE.**

- (A) If the City determines that a utility meter fails the accuracy standards set by the American National Standards Institute or the American Water Works Association, the City shall adjust a customer's account as prescribed by Section 15-9-140 (*Billing Adjustments*).
- (B) If a reclaimed water meter fails to register or registers inaccurately, the utility may charge the customer as prescribed by Section 25-9-398 (*Meter Readings*) of the Code.

*Source: 2003 Code Section 15-9-216; 1992 Code Section 18-4-305.*

#### **§ 15-9-142 ACCOUNT ADJUSTMENT BASED ON CROSSED METERS.**

- (A) In this section, "crossed meter" means a meter assigned to one service address that erroneously meters the service provided to a different service address.
- (B) If a customer has been invoiced based on a crossed meter, the Water Utility or the Electric Utility may adjust a customer's account based on the utility's determination of the customer's actual consumption and charges.
- (C) To correct cross-metered billing, the Water Utility or the Electric Utility may:
  - (1) modify the City's customer information system; or
  - (2) require a customer to correct the physical address of a service address or meter designation.

*Source: New.*

#### **§ 15-9-143 CUSTOMER'S RIGHT TO DISPUTE AN INVOICE.**

A customer may dispute the customer's utility invoice as provided in Article 12 (*Administrative Review and Hearing*).

*Source: 2003 Code Section 15-9-116; 1992 Code Section 18-4-180.*

#### **§ 15-9-144 DEFERRED PAYMENT AGREEMENT.**

- (A) The City shall adopt uniform guidelines for collections and deferred payment agreements.
- (B) The City may, but is not required to, agree to allow a customer to make deferred payments on a utility service account based on the guidelines adopted under this section.

- (C) A customer with an active account with a past due balance may apply to the City for a deferred payment agreement.

*Source: 2003 Code Sections 15-9-131 and 15-9-132; 1992 Code Sections 18-4-200 and 18-4-201.*

#### **§ 15-9-145 CHARGES FOR UTILITY SERVICE.**

As prescribed by Section 1502.057 (*Charges for Service*) of the Texas Government Code, the City shall equally and uniformly apply the rates it charges for utility service, and may not allow free utility service except to facilities operated by the City.

*Source: 2003 Code Section 15-9-2; 1992 Code Section 18-4-002.*

### **ARTICLE 10. CITY'S INSTALLATION AND METERING.**

#### **§ 15-9-151 INSTALLATION AND MAINTENANCE.**

- (A) The City shall install and maintain utility lines and equipment on the City's side of the point of delivery.
- (B) The City is not required to install or maintain a line or equipment on the customer's side of the point of delivery, except:
- (1) a utility meter; or
  - (2) as required in this chapter or a service contract.
- (C) A person may not connect a City electric utility service connection to a customer's service terminal unless the person is authorized by the City.

*Source: 2003 Code Sections 15-9-211(A) and (C); 1992 Code Sections 18-4-300(A) and (C).*

#### **§ 15-9-152 DESIGN AND INSTALLATION GUIDELINES.**

- (A) The directors of the Electric Utility and the Water Utility shall adopt design and installation guidelines related to a customer's installation and the City's service connection.
- (B) A person authorized to install a customer's installation or the City electric utility equipment or facilities shall comply with the City's "Utilities Criteria Manual."

- (C) A person authorized to install a customer's installation or the City water utility equipment or facilities shall comply with the City's "Water and Wastewater Design Criteria Manual."

*Source: 2003 Code Sections 15-9-211(A) and (B); 1992 Code Sections 18-4-300(A) and (B).*

#### **§ 15-9-153 METER INSTALLATION AND REMOVAL.**

- (A) The City may not install a utility meter until the customer has paid the appropriate fees.
- (B) A customer shall allow the City to install a utility meter in a location acceptable to the City and at no cost to the City. The owner shall maintain the meter location to allow the City to easily read and service the meter.
- (C) The City shall install:
- (1) an electric meter as prescribed by the American National Standard Institute C. 12 "Standard Code for Electricity Metering"; and
  - (2) a water meter as prescribed by the standards of the American Water Works Association.
- (D) The City may remove a utility meter or other equipment if there is:
- (1) utility service diversion, unlawful use of service, or damage to City utility equipment;
  - (2) an unsafe or hazardous condition; or
  - (3) a repeat violation of this chapter.
- (E) The City is not required to reinstall a meter or other equipment until the customer pays applicable fees and obtains necessary permits.

*Source: 2003 Code Section 15-9-213; 1992 Code Section 18-4-302.*

#### **§ 15-9-154 PRIMA FACIE EVIDENCE OF CONSUMPTION.**

The reading registered on a City utility meter is prima facie evidence of the amount of service provided to a customer.

*Source: 2003 Code Section 214; 1992 Code Section 18-4-303.*

## **§ 15-9-155 METER TESTS.**

- (A) The City may periodically test its utility meters on a sample basis and maintain registration accuracy as prescribed by established industry standards. The City shall test its water meters based on American Water Works Association guidelines, and shall remove water meters from service that do not meet the guidelines.
- (B) At the request of a customer, the City shall perform a meter accuracy test of the customer's utility meter.
- (C) The City may require a customer to pay the cost of a meter accuracy test if:
  - (1) the meter has been tested by the City during the preceding 12 months; and
  - (2) the test indicates that the average registration of the meter errs at a rate outside established industry standards.

*Source: 2003 Code Section 15-9-215; 1992 Code Section 18-4-304.*

## **§ 15-9-156 CUSTOMER'S DUTY OF CARE.**

- (A) The customer shall protect the City's utility equipment located on the customer's property. A customer may not allow an unauthorized person to inspect or service the City's utility equipment.
- (B) If the negligent or unauthorized action of a customer or a person authorized by the customer causes the loss of or damage to City property, the customer shall pay the cost of replacement or repair of the property.

*Source: 2003 Code Section 15-9-212; 1992 Code Section 18-4-301.*

## **ARTICLE 11. CUSTOMER'S INSTALLATION.**

### **§ 15-9-171 RESTRICTIONS ON CUSTOMER'S INSTALLATION.**

- (A) A customer's installation:
  - (1) shall comply with Chapter 25-12 (*Technical Codes*); and
  - (2) shall not interfere with the City's utility service to the customer or to another person.



(B) A customer's electric installation:

- (1) shall use equipment guaranteed to operate at the highest practicable power factor;
- (2) is subject to a penalty if the power factor is below the amount authorized by ordinance or tariff; and
- (3) if three phase service is supplied by the City, the customer shall:
  - (a) control the customer's use to maintain the load at the point of delivery at a reasonable electrical balance between the phases; and
  - (b) install protective equipment to protect the customer's three phase equipment from single phasing.

(C) A customer's water installation shall:

- (1) comply with Chapter 15-1 (*Cross Connection Regulation*);
- (2) include an approved pressure reducing valve if the pressure in the City's water line exceeds 80 pounds per square inch as prescribed by Article 6 (*Uniform Plumbing Code*) of Chapter 25-12 (*Technical Codes*);
- (3) be protected by the customer against damage resulting from a service interruption or irregularity or air entrapment; and
- (4) include an operable approved cut-off valve at the point of delivery.

(D) A customer's wastewater installation shall include backwater protection equipment if the customer's plumbing fixtures are lower than the castings to the City's wastewater mains.

*Source: 2003 Code Section 15-9-191; 1992 Code Section 18-4-275.*

**§ 15-9-172 CHANGES TO CUSTOMER INSTALLATION.**

- (A) A customer planning to make a material change to or increase the customer's installation shall notify the City and obtain approval before altering the customer's installation.
- (B) The City may not approve a material change to or increase in a customer's installation if the change or increase exceeds the limited capacity of the City's service connection, transformer, meter, or other equipment or facility supplying the customer.

(C) As promptly as possible after receipt of a customer's notice under this section, the City shall send the customer:

- (1) written approval or rejection of the proposed change or increase; or
- (2) notice that the change or increase can only be provided with utility service under certain conditions, including a description of the conditions.

*Source: 2003 Code Section 15-9-192; 1992 Code Section 18-4-276.*

#### **§ 15-9-173 RELOCATION OF A CITY DISTRIBUTION OR COLLECTION FACILITY.**

- (A) If the City relocates a distribution or collection facility, each affected customer shall move and reconnect the customer's connection to the new facility not later than the 60<sup>th</sup> day after the City sends written notice to the customer.
- (B) Except as provided in Subsection (C), a customer is responsible for the cost of reconnection.
- (C) The director of the Water Utility or the Electric Utility may use City funds to reconnect a residential customer line to a relocated facility if the director determines that the reconnection promotes the efficient operation of the utility or enhances utility service.
- (D) If a director decides to use City funds to relocate a residential customer line, the property owner will be notified not later than the 30<sup>th</sup> day before the start of construction work.
- (E) The City is not responsible for the operation or maintenance of a customer line reconnected to a City facility under this section or for other customer lines located on private property.
- (F) The City may disconnect a customer's utility service if the customer fails to comply with this section.

*Source: 2003 Code Section 15-9-196; 1992 Code Section 18-4-280.*

#### **§ 15-9-174 INSPECTION BY THE CITY.**

- (A) The City may inspect a customer's installation at any time to determine if the installation complies with the Code.
- (B) If the City determines that the customer's installation is not in good operating condition or does not comply with the Code, a utility may disconnect or refuse to provide utility service to a customer.

(C) The City may test a customer's wastewater installation to determine if there is infiltration, including:

- (1) potable or non-potable water from dripping or leaking plumbing, a pipe, valve, or fixture; or
- (2) seep water, rain water, or storm water entering a private sewer lateral line through a crack, pipe joint, opening, or other defect in the lateral line.

*Source: 2003 Code Sections 15-9-3(15) and 15-9-193; 1992 Code Sections 18-4-003 and 18-4-277.*

#### **§ 15-9-175 EMERGENCY REPAIR BY THE CITY.**

- (A) If a licensed plumber cannot restore a customer's service and a hardship or public danger exists, a customer may request that the City make emergency repairs to the customer's water, reclaimed water, or wastewater installations.
- (B) If the City agrees to make emergency repairs, the City shall only perform the repairs necessary to restore service. An emergency repair under this section does not create a warranty, liability, or responsibility for the City to perform additional work.
- (C) A customer shall reimburse the City for the cost of emergency repairs including administrative costs and related charges.

*Source: 2003 Code Section 15-9-194; 1992 Code Section 18-4-278.*

#### **§ 15-9-176 WATER SERVICE CUT-OFF FEE FOR CUSTOMER REPAIRS.**

- (A) If a customer cannot cut off the customer's water service at the main service valve, the City shall respond to a request from the customer to cut off the water service as an emergency response.
- (B) A customer shall pay the City a fee for the emergency water service cut off.

*Source: 2003 Code Section 15-9-195; 1992 Code Section 18-4-279.*

**ARTICLE 12. ADMINISTRATIVE REVIEW AND HEARING.**

**§ 15-9-191 ADMINISTRATIVE REVIEW.**

- (A) Except as provided in Subsections (B) and (C), before requesting an administrative hearing, a person who disputes an action, policy, decision, or invoice relating to utility service shall contact the director of the utility providing the service and request an administrative review.
- (B) Before requesting an administrative hearing, a customer who disputes an action, policy, or application related to the drainage fee or the transportation user fee may request an administrative review from the fee administrator at the Watershed Protection and Development Review Department as authorized by Chapters 14-10 (*Transportation Users Fee*) or 15-2 (*Drainage Utility*) of the Code. If requested by a customer, the fee administrator shall provide a customer with a copy of the department's Appeals Rules and Procedures.
- (C) A customer who disputes an action, policy, or decision by a utility related to compliance with Title 25 (*Land Development Code*) or Title 30 (*Austin/Travis County Subdivision Regulations*) of the Code shall follow the procedures prescribed in the applicable title.
- (D) A request for administrative review under this section shall include:
  - (1) the utility service involved;
  - (2) the reason for the dispute; and
  - (3) if applicable, the disputed amount.
- (E) The director of a utility or the fee administrator shall attempt to resolve the customer's dispute. If the director of a utility or the fee administrator cannot resolve the dispute through an administrative review, the director or fee administrator shall:
  - (1) inform the customer that the customer may request an administrative hearing; and
  - (2) provide the customer with instructions on how to request an administrative hearing.

*Source: 2003 Code Sections 15-9-51(A), (B), (D), and (E); 1992 Code Sections 18-4-075(A), (B), (D), and (E).*

## **§ 15-9-192 RESTRICTION ON ADMINISTRATIVE HEARING.**

A person may not request an administrative hearing if:

- (1) the person did not request and receive an administrative review;
- (2) the customer did not request an administrative hearing on or before the 90<sup>th</sup> day after the customer knew or should have known about the subject of the dispute; or
- (3) the person is disputing:
  - (a) the terms or denial of a deferred payment agreement;
  - (b) the customer's financial inability to pay for utility services provided by the City;
  - (c) the rate schedule;
  - (d) the occurrence of a utility service diversion, unlawful use of service, damage to City utility equipment, unauthorized sale of utility service, or violation of law;
  - (e) the amount of undercharged costs or charges assessed for a utility service diversion, unlawful use of service, or damage to City equipment;
  - (f) unexplained high utility consumption if a meter has been tested and is determined to be accurate;
  - (g) denial or discontinuance of utility service based on a danger to public health or safety; or
  - (h) a matter subject to a court decision.

*Source: 2003 Code Section 15-9-51(C); 1992 Code Section 18-4-075(C).*

## **§ 15-9-193 ADMINISTRATIVE HEARING.**

- (A) A hearing under this article shall be held by a hearings officer appointed by the city manager. A hearings officer may not be an employee of a utility.
- (B) A person may appeal an administrative review by filing a written appeal on or before the deadline established in the City's instructions.
- (C) Not later than the third day before the date of an administrative hearing, the director of a utility or the fee administrator of the Watershed Protection and Development Review Department shall provide an appellant with notice of the

time, date, and location of the hearing either in person, by confirmed facsimile transmission, or by mail to the person's last known address. The City and the appellant may agree to the date and time of an administrative hearing.

- (D) Except as provided in Subsection (E), if an appellant fails to appear at an administrative hearing, the hearings officer may enter a default judgment against the appellant.
- (E) The City and the appellant may agree to waive appearance at an administrative hearing and submit the dispute to the hearings officer in writing.
- (F) The appellant may appear in person and may be represented by counsel. If an appellant is represented by counsel, the appellant must notify the City on or before the second day before the hearing. If the City does not receive notice under this subsection, the City may reschedule the administrative hearing.
- (G) The customer may make one request to reschedule an administrative hearing before the City reinstates utility service termination procedures for a period not to exceed 30 days from the date of the original hearing. The City may agree to the date and time of a hearing rescheduled under this subsection on a date after the 30<sup>th</sup> day after the date of the original hearing. If a customer makes a second request to reschedule an administrative hearing, the City may terminate the customer's utility service.
- (H) If the City does not agree to a customer's second or later request to reschedule, the hearings officer may not reschedule an administrative hearing and shall issue a decision on the merits.
- (I) The hearings officer may deliver an oral decision at the close of a hearing and shall deliver a written decision not later than:
  - (1) the 10<sup>th</sup> day after the close of the hearing; or
  - (2) if the hearings officer requests additional information from the parties, a date agreed to by the parties.

*Source: 2003 Code Section 15-9-52(A)-(D), (F), and (G); 1992 Code Section 18-4-076(A)-(D), (F), and (G).*

## **§ 15-9-194 RESULTS OF HEARINGS.**

- (A) If a hearings officer rules against a customer, the hearings officer's decision shall include:
  - (1) the actions to be taken by the customer to continue utility service; and

- (2) a deadline for performance by the customer that is consistent with the requirements of this chapter.
- (B) If a hearings officer rules completely or partly in favor of a customer, the hearings officer's decision shall include:
  - (1) the actions to be taken by the City and the customer to continue or reconnect utility service; and
  - (2) deadlines for performance by the City and the customer that are consistent with the requirements of this chapter.
- (C) A hearings officer may not base the officer's decision on a judicial decision from a case to which the City was not a party.

*Source: 2003 Code Section 15-9-53; 1992 Code Section 18-4-077.*

#### **§ 15-9-195 CONTINUITY OF SERVICE DURING APPEAL.**

- (A) Before a hearing under this article, the City shall continue to provide a customer with utility service, unless:
  - (1) the service was disconnected before the customer requested a hearing;
  - (2) the customer fails to pay an invoice for utility services provided after a hearing was requested;
  - (3) the customer's service is transferred; or
  - (4) termination is required to protect public health and safety.
- (B) If a customer's utility service is disconnected before the customer requested a hearing, the City shall reconnect utility service if the customer pays the fees authorized in the rate schedule. The City shall refund the reconnection fee if the hearings officer rules in favor of the customer.
- (C) The City may not continue or reconnect utility service if the connection:
  - (1) allows utility service diversion;
  - (2) creates a dangerous condition;
  - (3) allows an unlawful use of service;
  - (4) allows unauthorized remetering, submetering, or resale of utility service; or

- (5) violates Title 25 (*Land Development Code*) of the Code or a City ordinance relating to the utility service.

*Source: 2003 Code Section 15-9-54; 1992 Code Section 18-4-078.*

## **ARTICLE 13. OFFENSES AND PENALTY.**

### **§ 15-9-201 OFFENSE.**

A person commits an offense if the person:

- (1) commits or assists in the commission of a violation of this chapter;
- (2) is the owner, occupant, lessee, or manager of property or facilities that are the source of a violation of this chapter; or
- (3) obstructs or delays access by a City employee or agent to a customer's property or facilities.

*Source: New.*

### **§ 15-9-202 PENALTY.**

(A) A violation of this chapter is a Class C misdemeanor for each day or portion of a day the violation continues. An offense under this chapter is punishable by a fine not to exceed:

- (1) \$500, except as provided in Subsection (2); or
- (2) \$2,000 if the offense is a violation of regulation relating to fire safety, zoning, or public health and sanitation.

(B) Proof of a culpable mental state is not required for conviction of an offense under this chapter.

*Source: New.*

**PART 2.** Article 17 (*Wastewater Billing Adjustments for Evaporative Cooling Towers*) of Chapter 15-9 of the Code is renumbered as Article 14.

**PART 3.** Article 18 (*Metered Wastewater Billing*) of Chapter 15-9 of the Code is renumbered as Article 15.

**PART 4.** The source annotations in this ordinance are for the convenience of the reader and are not a part of the law enacted by this ordinance.

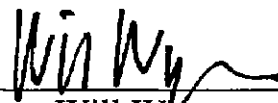


**PART 5.** This ordinance takes effect on August 16, 2004.

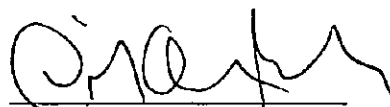
**PASSED AND APPROVED**

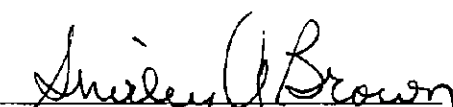
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August 5, 2004

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Will Wynn  
Mayor

**APPROVED:**   
David Allan Smith  
City Attorney

**ATTEST:**   
Shirley A. Brown  
City Clerk