

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. 006-019**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES OF THE TOWN BY AMENDING SECTION 82-79 DEFINITIONS; 82.79.5 SECURITY DEPOSIT REFUNDS; 82.80.1 PAYMENT; 82.80.2 BILLING DISPUTE; 82.80.3 SERVICE TERMINATION PROCEDURES; 82.83.1 MISCELLANEOUS CHARGES AND PROVISIONS; AND 82-83.2 DISCREPANCIES IN AMOUNT OF BILL; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Addison's water and sewer revenue is vital to ensuring the financial health of the Utility Fund.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, THAT:**

Section 1. The Code of Ordinances (the "Code") of the Town of Addison, Texas (the "City") is hereby amended as follows:

A. Chapter 82 (Utilities), Article I (In General), Division 5 (Rates and Charges) of the Code is hereby amended in part as follows:

1. Section 82-79 (Definitions) is amended to read as follows:

*Sec. 82-79. Definitions.*

The following definitions apply in the construction of this chapter:

*Applicant:* A person who makes application to receive a service from the department.

*City or Town:* Town of Addison, Texas.

*Commercial customer:* Nonresidential consumer who receives service from the city under this chapter. Such term includes, but is not limited to, all businesses, restaurants, hospitals, apartments, etc.

*Commercial large classification:* Nonresidential accounts which have meters two inches or greater in size. Such accounts include restaurants, retail establishments, professional offices, office complexes, and other commercial endeavors.

*Commercial small classification:* Nonresidential accounts which have meters less than two inches in size. Such accounts include restaurants, retail establishments, professional offices, office complexes, and other commercial endeavors.

*Consumer or customer:* A person who:

- (a) Has an account in his name with the department for a service;
- (b) Has made application for a service, and the service has been provided or made available by the department at the location specified in the application; or
- (c) Uses, receives or benefits from service, even though no account for service may exist or no application for service may have been made.

*Department:* The Department of Financial and Strategic Services

*Director:* The director of the department or his authorized assistants, representatives and designees.

*Fire meter classification:* Accounts which have been established for the sole purpose of monitoring water flow for building fire suppression systems.

*Hotel/motel classification:* All hotels and motels as defined in Chapter 351 of the Tax Code, Vernon's Annotated Civil Statutes.

*Industrial large classification:* Accounts which have meters two inches or greater in size and which manufacture products on site.

*Multi-family residential classification:* Accounts in this classification are residential units which are metered collectively under one account (apartment complexes).

*Municipal/schools classification:* Accounts which have been established by a municipality, county, independent school district, or a nonprofit educational corporation.

*Permittee:* A person granted a permit under this chapter.

*Person:* An individual, private or public corporation, partnership, association, governmental entity, firm, industry or other entity.

*Property owner:* The record title holder of premises who receives Service from the city.

*Residential customer:* Owners or occupiers of single-family dwellings who receive service from the city under this chapter. Such term includes individually metered homes, townhomes, condominiums and duplexes.

*Service:* All water and water-related service provided for the use and benefit of persons inside and outside the city through the operations and facilities of the department, including, but not limited to:

- (a) Supply of treated water;
- (b) Wastewater collection, treatment and disposal;
- (c) Building and extension of service mains;
- (d) Providing of meters and service connection to property;
- (e) Discontinuance, restoration or repair of service;
- (f) Issuance and use of permits;
- (g) Extension or replacement of service mains for which pro rata or other assessments are charged;
- (h) Collections of rates or fees for service; and

- (i) Other department activities for the benefit of the general public authorized under this chapter.

*Single-family residential classification:* Accounts in this classification are detached residential units which are individually metered by the town and include homes, townhomes, condominiums, and duplexes.

*Sprinkler large classification:* Accounts which have meters two inches or greater in size and have been established for the sole purpose of providing water for irrigation of lawns and landscaped areas.

*Sprinkler small classification:* Accounts which have meters less than two inches in size and have been established for the sole purpose of providing water for irrigation of lawns and landscaped areas.

(Code 1982, § 18-79; Ord. No. 087-072, § 3, 10-27-87; Ord. No. 088-050, § 4, 11-8-88; Ord. No. 089-002, § 2, 1-10-89)

- 2. Section 82-79.5 (Security Deposit Refunds) is amended to read as follows:

*Sec. 82-79.5. Security deposit refunds.*

(a) *Refund requirements.* At his/her discretion, the director may refund a security deposit to the residential customer when the customer meets all of the following conditions:

- (1) The customer has been receiving service for 12 continuous months;
- (2) The customer has acquired a satisfactory credit history with the department;
- (3) The customer has not made payment during the past 12 months with a check returned due to insufficient funds; and
- (4) The customer has no delinquent bills outstanding.

(b) *Refusal to refund.* Notwithstanding subsection (a), the director may refuse to refund a security deposit where the director determines from the circumstances of a customer's account that there is a substantial risk of financial loss to the department.

(c) *Review for eligibility.* The director shall review all residential customer payment histories at least once a year to determine eligibility for refund. The director will make refunds by check payable to the customer.

(Code 1982, § 18-79.5; Ord. No. 087-072, § 4, 10-27-87)

- 3. Section 82-80.1 (Payment; Late Payments) is amended to read as follows:

*Sec. 82-80.1. Payment; Late Payments*

(a) All charges under this Ordinance Number 087-072, including any penalties assessed, unless otherwise specifically provided for, shall be payable monthly in accordance with bills rendered therefore to the customer by the department. "Render" shall mean deposit in the United States mail by the department.

(b) The bill as rendered shall be the net amount due and payable to the

department for all services. The charges so rendered shall be due and payable

upon receipt of such bill and shall become delinquent after the ~~tenth~~twelfth day of the following month. If payment is to be made in person or by mail, the date of receipt shall be the date received by the department.

- (d) If such bill is not paid, as of the date indicated in this subsection:
- (1) Such liability shall be discharged upon payment of the delinquent bill, plus the penalty herein provided, prior to the due date of the next succeeding bill, and provided further that;
  - (2) If such payment of a delinquent bill, plus the penalty herein provided, be not paid prior to the due date of the next succeeding bill, the amount of the delinquent bill, plus the penalty herein provided, shall be added to and become a part of the net amount of the next succeeding bill.
- (e) Failure to receive any bill provided by this section shall not relieve the customer of any liability therefore.  
(Code 1982, § 18-80.1; Ord. No. 087-072, § 6, 10-27-87)

4. Section 82-80.2 (Billing Dispute) is amended to read as follows:

*Sec. 82-80.2. Billing dispute.*

- (a) The director is responsible for ensuring the integrity of the utility billing system. Upon discovery of facts that reveal billing errors, the director is charged with resolving the billing issue in a manner satisfactory to both the city and customer. The director may make adjustments to bills delivered to the customer for amounts up to \$2,500.00. For adjustments involving amounts of between \$2,500.01 and \$24,999.99, the director shall obtain approval from the city manager. For adjustments involving amounts of \$25,000.00 or greater, the city manager shall obtain approval from the city council.
- (b) The city's and customer's liability for amounts related to billing errors shall be limited to the six months preceding discovery of the error.
- (c) At any time before the date of termination of service for nonpayment of the amount(s) shown on a utility bill, a notice of rejection or a notice of termination, a customer may dispute the correctness of all or part of the amount(s) shown in accordance with the provisions of this division. A customer shall be entitled to dispute the correctness of all or part of the amount(s) if all or part of the amount(s) was (were) the subject of a previous dispute under this section.
- (d) The procedure for customer disputes shall be as follows:
- (1) Before the date of termination, the customer shall notify the director, orally or in writing, that he disputes all or part of the amount(s) shown on a utility bill, a notice of rejection or a notice of termination, stating as completely as possible the basis for the dispute.
  - (2) If the director determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amount(s) shown, the director shall mail to the customer a notice stating that the present dispute is untimely or invalid. The director shall then proceed as if the customer had not notified him of the present dispute.

(3) If the director determines that the present dispute is not untimely or invalid under this section, the director, within three days after receipt of the customer's notice, shall arrange an informal meeting between the customer and himself or a designee.

(4) Based on the department's records, the customer's allegations and all other relevant materials available to the director, he shall resolve the dispute, attempting to do so in a manner satisfactory to both the city and the customer.

(5) Within five days of completion of the meeting, the director shall mail to the customer a copy of his decision resolving the dispute.

(6) If the decision is unsatisfactory to the customer, the customer, within five days of receipt of the director's decision, may request, in writing, a formal hearing before the city manager.

(7) The formal hearing before the city manager shall be held within ten (10) days of the city's receipt of the customer's written request.

(8) At the hearing the director and the customer shall be entitled to present all evidence that is, in the city manager's view, relevant and material to the dispute, and to examine and cross-examine witnesses. A tape-recorded (or at the option of the city manager, a stenographic) record of the hearing may be maintained.

(9) Based on the record established at hearing, the city manager, within five days of the completion of the hearing shall issue his written decision formally resolving the dispute. His decision shall be final and binding on the city and the customer.

(e) Utilization of this dispute procedure shall not relieve a customer of his obligation to timely and completely pay all other undisputed utility charges and/or installments and surcharges, and the undisputed portion(s) of the amount(s) which is (are) the subject of the present dispute. Notwithstanding subsection (d), failure to timely and completely pay all such undisputed amounts shall subject the customer to termination of service in accordance with the provisions of this division.

(f) Until the date of the city manager's or the director's decision, whichever is later, the director shall not terminate the service of this customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount(s). If it is determined that the customer must pay some or all of the disputed amount(s), the director shall promptly mail to, or personally serve upon the customer a notice of termination as provided in section 82-80.3.

(Code 1982, § 18-80.2; Ord. No. 087-072, § 6, 10-27-87; Ord. No. 089-002, § 3, 1-10-89)

5. Section 82-80.3 (Service termination procedures) is amended to read as follows:

*Sec. 82-80.3. Service termination procedures.*

- (a) Except as provided in section 82-80.2(d), and 82-80.4, the provisions of this section shall govern all terminations of service for nonpayment of utility charges and/or installments and surcharges by residential and commercial customers.
- (b) If by the payment date shown on a utility bill or a notice of rejection the director has not received complete payment of the amount(s) shown on the bill or the notice, the director shall mail to, or personally serve upon the customer a notice of termination at least three days after the payment date.
- (c) The notice of termination shall contain the following:
  - (1) The amount to be paid;
  - (2) The date of the notice of termination;
  - (3) The date of termination, which shall be at least ten days from the date of the notice of termination;
  - (4) Notice that unless the director receives complete payment of the amount shown prior to the date of termination, service shall be terminated under subsection (d);
  - (5) Notice that in lieu of paying the entire amount shown, a residential customer, prior to the date of termination, may notify the director that he disputes the correctness of all or part of the amount shown, if all or part of the amount shown was not the subject of a previous dispute under section 82-80.2.
- (d) If, prior to the date of termination,
  - (1) The director has not received complete payment of the amount shown on the notice of termination; or
  - (2) The residential customer has not notified the director that he disputes the correctness of all or part of the amount shown on the notice of termination, then the director shall terminate service on the date of termination.
- (e) If the director receives payment of the entire amount shown on the notice of termination prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this Division Number 087-072.
- (f) Cutting and plugging connections. The directors' authority to discontinue service includes the right to cut and plug water or wastewater connections to private property. The costs of cutting and plugging connections will be charged to the customer in addition to the delinquent charges due.
- (g) Restoration of service. Discontinued service will not be restored until the customer, owner or some other person either pays all charges due (including the charges to restore connections; a \$20.00 reconnection fee and a security deposit in the amount specified at section 82-79.3), or, where applicable, ceases violation of the particular Code provision in question. The decision to restore service while delinquent charges or Code violations still exist rests solely with the director.
- (h) Exceptions to notice requirement. Notice as provided in this Division Number 087-072 does not apply to discontinuance of service resulting from a violation of this chapter if the director determines that immediate discontinuance is necessary to prevent an imminent threat or occurrence of:
  - (1) Harm to the health or safety of persons;
  - (2) Damage to city or private property; or

(3) Contamination of the water system.

(i) Customer's request to discontinue. Upon a customer's written request, the director may discontinue service to the customer. Upon receipt of the request, the director may remove the water meter and service connections. However, the customer is liable for all charges incurred prior to removal of the meter. Where service is furnished through more than one meter, the customer may request discontinuance of one or more meters and thereafter be billed on the basis of the remaining meter or meters.

(j) The director may delay termination of service processes to avoid unnecessary hardship to customers. However, under no circumstances shall the delay exceed two weeks.

(k) Cumulative remedies. Enforcement of this section does not waive any additional remedies, civil or criminal, available to the city under law.

(Code 1982, § 18-80.3; Ord. No. 087-072, § 6, 10-27-87)

6. Section 82-83.1 (Miscellaneous Charges and Provisions) is amended to read as follows:

*Sec. 82-83.1. Miscellaneous charges and provisions; rates where no charge specified.*

(a) *Returned check charge.* A customer will be assessed the maximum amount allowed by the State of Texas Business and Commerce Code, Section 3.506 when a customer pays a service bill by check, the check is presented to the bank, and the bank does not honor the check.

(b) *Where no charge specified.* When charges for a service are not specified in this chapter, the director shall establish charges which are based on the cost of performing the services, including, but not limited to, such services as the moving of meter locations, repair to damaged facilities, field location of mains, fire hydrant relocation, installation of traffic lids on meter boxes, replacement of a meter with a meter larger than one inch, water and wastewater main abandonments, installation and removal of temporary service, abandonment of manholes and provision of printed materials.

(c) *Where money credited.* All sums of money collected as a charge or fee authorized under this chapter, at the rates specified in this chapter, shall be credited to the appropriate water and wastewater fund of the city.

(d) The service charges and fees provided in this section shall be in addition to, not in lieu of, any charges, fees, rates or penalties assessed under other provisions of this chapter or of the Code of Divisions, Town of Addison.

(Code 1982, § 18-83.1; Ord. No. 087-072, § 6, 10-27-87)

7. Section 82-83.2 (Discrepancies in Amount of Bill) is amended to read as follows:

*Sec. 82-83.2. Discrepancies in amount of bill.*

In any case in which there appears to be a material discrepancy in the net amount of the bill rendered to the customer, it shall be the responsibility of the department, upon written notice from the customer, to send an inspector to inspect and to verify the reading of the meter within five days of receipt of the complaint, at no charge to the customer; provided that if the number of such complaints shall exceed three within any six-month period, the department shall be entitled to charge the customer \$50.00 for any inspection made as provided in this subsection during the succeeding twelve-month period, said charge to be added to and made a part of the net amount of the bill next rendered to the customer by the department after the inspection is made.

(Code 1982, § 18-83.2; Ord. No. 087-072, § 6, 10-27-87)

Section 2. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances, except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 3. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance, despite such invalidity, which remaining portion shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall become effective from and after its date of passage as provided by law.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON,  
TEXAS on this 11<sup>th</sup> day of April, 2006.

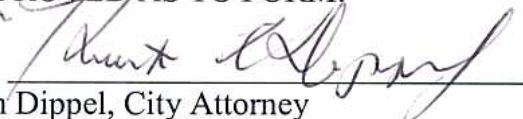
  
\_\_\_\_\_  
Mayor Joe Chow

ATTEST:

By:   
\_\_\_\_\_  
Carmen Moran, City Secretary

**Published:**  
**04/29/06**

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Ken Dippel, City Attorney