

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 008-015

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 82 (UTILITIES) OF THE CODE OF ORDINANCES OF THE CITY BY (I) AMENDING SECTION 82-79.1 (APPLICATION FOR SERVICE), SECTION 82-79.3 (SECURITY DEPOSIT AMOUNTS), SECTION 82-80 (COLLECTION REGULATIONS), SECTION 82-80.1 (PAYMENTS; LATE PAYMENTS), SECTION 82-80.2 (BILLING DISPUTE), AND SECTION 82-80.3 (SERVICE TERMINATION PROCEDURES) THEREOF, SUCH AMENDMENTS PROVIDING FOR IDENTIFICATION REQUIREMENTS, DEPOSIT AMOUNTS, DEPOSIT REFUNDS, COLLECTION REGULATIONS, LATE PENALTIES, APPEAL PROCESSES, AND NOTICES OF TERMINATION, (II) ADDING SECTION 82-79.9 (BILLING REGULATIONS), SECTION 82-83.3 (ADJUSTMENTS FOR LEAKS), AND SECTION 82-83.4 (AUTHORITY TO WRITE OFF UNCOLLECTIBLE DEBT), SUCH ADDITIONS PROVIDING FOR BILLING REGULATIONS, LEAK ADJUSTMENTS, AND WRITE OFFS, AND BY (III) DELETING SECTION 82-79.5 (SECURITY DEPOSIT REFUNDS) IN ITS ENTIRETY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendment. Chapter 82 (Utilities) of the Code of Ordinances of the Town of Addison, Texas is hereby amended in the following particulars, and all other chapters, articles, section, subsections, paragraphs and words are not amended but are ratified and confirmed.

A. Section 82-79.1 of the Code is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-79.1. Application for service.

(a) *Application required.* A person shall not use a service without first making the proper application for the service with the director. The application must be made on forms provided by the director.

(b) *Contract.* The application constitutes a contract to pay all charges for service and to abide by all provisions of this chapter, the provisions of this Code and other local, state and federal laws relating to the service.

(c) *Accurate information.* An applicant shall furnish proper identification and correct information when applying for service. A driver's license or state-issued identification will be required to establish service. If information is not furnished or is false, the application may be denied and service, when provided, may be discontinued. A person

commits an offense if he knowingly makes a false statement on an application for service under this chapter.

(d) *Use without application.* A person who occupies premises and uses service without making application is responsible for all water used from the date of the last meter reading previous to that person occupying the premises. If the person is a tenant and the owner of the premises has failed to give the notice required in section 82-82.1, then the owner is jointly and severally responsible with the tenant for the charges.

(e) *No new applications accepted.* Should water, sewer or sanitation (refuse collection) service be discontinued to any premises because of violations of any of the provisions of this Division Number 087-072 or this Code, no new application shall be accepted from any person to continue service to such premises under any other name so long as the premises are in the control of the original customer, whether owner or occupier, until all penalties, bills and damages due to the department have been paid in full or until agreement relating to payment thereof has been reached between the customer and the department.

B. Section 82-79.3 of the Code is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-79.3. Security deposit amounts.

~~(a) Commercial customers shall make security deposits as follows:~~

~~(1) An amount equivalent to two times the average estimated monthly bill, but not in an amount less than \$25.00, is the required security deposit amount for all commercial customers who make application for service the first time subsequent to the passage of this section [Ordinance Number 087-072].~~

~~(2) An amount equivalent to two times the average monthly bill for the past 12 months for the location served is required of the following commercial customers currently being served:~~

~~(i) Those having paid for any service during the past 12 months with an insufficient funds check;~~

~~(ii) Those whose water has been cut off during the past 12 months;~~

~~(iii) Those whose account has been delinquent for two or more months;~~

~~(iv) Those whose past credit history with the department has proved that they do not pay utility bills promptly and as due;~~

~~(v) Those whose deposit becomes insufficient to pay two times the average monthly bill.~~

~~(b) Residential customers shall make security deposits as follows: Each residential water consumer shall make a security deposit in at least the sum of \$25.00. Should a \$25.00 deposit be insufficient to pay an average monthly bill or if experience has provided that a customer does not pay utility bills promptly and as due, the director may require the deposit to be in any sum deemed necessary to protect the town.~~

(a) Applicants for water and/or sewer service shall be required to pay to the town a security deposit to guarantee all amounts which may become due to the town for water and/or sewer service.

(b) The minimum deposit amount shall depend on the applicant's customer classification and shall be as follows:

<u>Customer Classification:</u>	<u>Deposit Amount:</u>
<u>Single-Family Residential</u>	<u>\$50.00</u>
<u>Multifamily Residential</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$1,500.00</u>
<u>School</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$500.00</u>
<u>Commercial Large (meter size greater than or equal to two inches)</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$700.00</u>
<u>Commercial Small (meter size less than two inches)</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$150.00</u>
<u>Industrial Large (meter size greater than or equal to two inches)</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$500.00</u>
<u>Industrial Small (meter size less than two inches)</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$100.00</u>
<u>Hotel/Motel</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$2,000.00</u>
<u>Sprinkler Large (meter size greater than or equal to two inches)</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$500.00</u>
<u>Sprinkler Small (meter size less than two inches)</u>	<u>An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$200.00</u>
<u>Fire</u>	<u>\$50.00</u>

(c) Commercial customers regardless of previous service must pay the deposits listed above for any new accounts.

(d) Residential customers who currently have service but are locating to another location within the town may transfer their deposit provided their account is in good standing.

(e) Customers will be grandfathered within the deposit levels required when they applied for service except as provided for within paragraph (f) of this section.

(f) As provided in section 82-80.3, when an account becomes delinquent the director may require an additional deposit in any sum deemed necessary to protect the town.

C. Section 82-79.5 of the Code is hereby deleted in its entirety (additions are underlined, deletions are ~~struck through~~):

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.~~

D. Section 82-79.9 of the Code is added to read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-79.9. Billing regulations.

Water and sewer charges shall be billed on one (1) bill as applicable to each account. All charges shall be due on the twelfth day of each month, or the following Monday if the twelfth day falls on a Saturday, Sunday, or town holiday. Bills shall be mailed to customers on or before the twenty-fourth day of each month and specify the water consumed and all charges in accordance with the rates established in sections 82-76 and 82-77.

E. Section 82-80 of the Code is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-80. Collection regulations.

(a) The director is authorized to promulgate regulations and procedures, not in conflict with this Code, the City Charter or applicable state or federal laws or regulations, concerning the collection of charges for service and the handling of customer accounts, receipts and reports.

(b) An account is considered delinquent if not paid in full by the due date. If payment is not received in full by the due date, the director may take action in connection with such delinquency, including, without limitation, the following:

- (1) Pursue the service termination procedures as outlined in section 82-80.3.
- (2) Perfect a lien upon the property as outlined in sections 82-81.2 and 82-81.3.
- (3) Take civil action to collect the delinquent amount.

F. Section 82-80.1 of the Code is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-80.1. Payment; late payments.

(a) All charges under 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 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.

(c) 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~~ a penalty of ten percent of the total amount of the bill, 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.

(d) Failure to receive any bill provided by this section shall not relieve the customer of any liability therefore.

G. Section 82-80.2 of the Code is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-80.2. Billing dispute/appeal.

(a) The director is responsible for ensuring the integrity of the utility billing system. If a customer would like to appeal a penalty or other collections related fee or u~~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 or his designee. 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 the charge being appealed or the 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 appeals shall be as follows:

(1) If a customer does not dispute the correctness of an amount(s) shown on a utility bill, a notice of rejection or a notice of termination, but is appealing the assessment of a penalty or other collections related fee, the customer shall notify the director, orally or in writing, of the amount being appealed.

(2) At the director's discretion, a penalty or other collections related fee may be waived for a customer.

(3) The director within three days after receipt of the customer's notice shall notify the customer if the penalty or other collections related fee will be waived.

(e) 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 or his designee.

(7) The formal hearing before the city manager shall be held within ten 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.

(fe) Utilization of this dispute/appeal 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.

(gf) 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.

H. Section 82-80.3 of the Code is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

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 not less than ~~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 no less than ~~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.
- (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 an additional 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 Ordinance 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.

I. Section 82-83.3 of the Code is added to read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-83.3. Adjustments for leaks.

- (a) An adjustment reducing the water bill of a customer may be considered when a written statement is filed with the director requesting an adjustment for allegedly excessive water consumption. In addition the customer must provide proof of the leak, such as a plumber's statement or other repair statement, to substantiate the request.
- (b) Upon satisfactory proof of the leak, the director may adjust the customer's bill as follows:

(1) The highest consumption month(s) in the period the leak occurred will be used for consideration of an adjustment. No more than three consecutive billing periods will be used for an adjustment calculation.

(2) The difference between the consumption for the month(s) in which the leak occurred and the average consumption for the previous 12 months prior to the leak will be assessed at the wholesale rate charged to the town by other entities for water and sewer service.

(3) The difference between amount calculated in paragraph (2) and the amount originally billed will be adjusted on the customer's account.

(c) No more than one (1) leak adjustment may be given to a customer within any calendar year.

J. Section 82-83.4 of the Code is added to read as follows (additions are underlined, deletions are ~~struck through~~):

Sec. 82-83.4. Authority to write off uncollectible debt.

No later than January 31st of each year the director is authorized to write off those water and sewer debts owed to the town which, following a diligent and reasonable effort to collect the debt, the director reasonably determines to be uncollectible for the fiscal year ended the previous September 30th. The director may write off these water and sewer debts for amounts totaling up to \$2,500.00. For write offs involving amounts totaling between \$2,500.01 and \$24,999.99, the director shall obtain approval from the city manager. For write offs totaling amounts of \$25,000.00 or greater, the city manager shall obtain approval from the city council.

Section 2. Savings. 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 portion of this Ordinance despite such invalidity, which remaining portion shall remain in full force and effect.

Section 4. Effective Date. The changes to the Town of Addison, Texas' Code of Ordinances as set forth in this Ordinance shall be effective from and after June 1, 2008.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 13th day of May, 2008.



Joe Chow, Mayor

ATTEST:

By: 

Mario Canizares, City Secretary

APPROVED AS TO FORM:

By: 

John Hill, City Attorney

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