

Sec. 82-76. Sewage rates. 

The customer classifications, minimum bills, and consumption charges shall be as follows:

(1)

Sewer minimum bills. Minimum monthly bills shall be applied to all customers based upon customer classification and shall include an allowance for volume based upon water consumed as follows:

Customer Classification:	Minimum Monthly Bill	Volume Included (Gallons)
Single-Family Residential	\$13.34	2,000
Multifamily Residential Large (meter size greater than or equal to two inches)	166.28	37,000
Multifamily Residential Small (meter size less than two inches)	70.15	15,000
Schools	92.00	20,000
Municipal	48.30	10,000
Commercial Large (meter size greater than or equal to two inches)	166.28	37,000
Commercial Small (meter size less than two inches)	26.45	5,000
Industrial Large (meter size greater than or equal to two inches)	166.28	37,000
Industrial Small (meter size less than two inches)	17.71	3,000

Hotel/Motel	441.58	100,000
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(2)

Sewer volume rate. All volume which exceeds the amount allowed in the minimum bill shall be charged at a rate of \$4.37 per 1,000 gallons of water consumed for all customer classifications.

(3)

Maximum residential sewer bill. Single-family residential customers shall not be charged for volume which exceeds 8,000 gallons of water consumed.

(4)

Separately metered irrigation or air-conditioning uses of water. No sewer charges shall be levied for separately metered water that is used for irrigation sprinklers or for air-conditioning cooling towers where none of the water is returned to the sewage system.

(5)

Roof-top air-conditioning uses that are not separately metered. Customers with cooling tower units for air-conditioning uses that are not separately metered shall be billed for sewer services based on water consumption up to a maximum amount computed as the average of the three preceding winter billing months of December, January, February. The re-computed winter average will be effective as of October 1996 based on the 1995—96 winter months and for the March monthly billings in 1997 and thereafter.

In the event the customer believes their business contributes less sewer volume than those amounts subject to the calculation of maximum of the average water consumption for the three preceding billing winter months, they may, at their expense and under city specifications, construct a separate water line and water meter for air-conditioning cooling tower purposes or, alternatively, construct a separate sewer meter to determine the exact amount of sewage discharged. In the case of a separate water line and water meter, there shall be no sewage charges for the water consumed. In the case of a separate sewer meter, sewage rates shall be charged based upon the actual sewage flow.

(Ord. No. 621, § 1, 9-23-80; Ord. No. 813, § 1, 7-13-82; Code 1982, § 18-76; Ord. No. 083-063, § 1, 10-11-83; Ord. No. 087-57, § 1, 9-22-87; Ord. No. 088-050, § 1, 11-8-88; Ord. No. 093-024, § 1, 4-13-93; Ord. No. 093-056, § 1, 9-28-93; Ord. No. 096-049, § 1, 9-24-96; Ord. No. 099-043, § 1, 9-28-99; Ord. No. 003-033, § 1A.1, 9-23-03; Ord. No. 005-055, § 1, 10-11-05; Ord. No. 008-033, § 1A.1, 9-9-08; Ord. No. 010-033, § 1.A., 9-21-10; Ord. No. 011-059, § 1.A.1, 9-13-11; Ord. No. 013-036, § 1.A.1, 9-10-13)

Sec. 82-77. Water rates.

The customer classifications, minimum bills, and consumption charges shall be as follows:

(1)

Water minimum bills. Minimum monthly bills shall be applied to all customers based upon customer classification and shall include an allowance for volume based upon water consumed as follows:

Customer Classification:	Minimum Monthly Bill	Volume Included (Gallons)
Single-Family Residential	\$10.66	2,000
Multifamily Residential Large (meter size greater than or equal to two inches)	92.13	37,000
Multifamily Residential Small (meter size less than two inches)	40.92	15,000
Schools	52.55	20,000
Municipal	29.28	10,000
Commercial Large (meter size greater than or equal to two inches)	92.13	37,000
Commercial Small (meter size less than two inches)	17.64	5,000
Industrial Large (meter size greater than or equal to two inches)	92.13	37,000
Industrial Small (meter size less than two inches)	12.98	3,000
Hotel/Motel	238.77	100,000
Irrigation Large (meter size greater than or equal to two inches)	190.71	40,000

Irrigation Small (meter size less than two inches)	75.27	15,000
Fire Meters	24.62	8,000

(2)

Water volume rate. All volume which exceeds the amount allowed in the minimum bill shall be charged at a rate of \$2.33 per 1,000 gallons of water consumed for all customer classifications, with the exceptions as noted in subsection (3) below.

(3)

Water conservation volume rate. Single-family residential customers shall be charged a rate of \$4.62 per 1,000 gallons of water for all water consumed in excess of 15,000 gallons. Irrigation (large and small) customers shall be charged for all volume which exceeds the amount allowed in the minimum bill at a rate of \$4.62 per 1,000 gallons of water consumed.

(Ord. No. 621, § 2, 9-23-80; Ord. No. 813, § 2, 7-13-82; Code 1982, § 18-77; Ord. No. 083-063, § 1, 10-11-83; Ord. No. 087-57, § 2, 9-22-87; Ord. No. 088-050, § 2, 11-8-88; Ord. No. 089-002, § 1, 1-10-89; Ord. No. 093-024, § 2, 4-13-93; Ord. No. 093-056, § 2, 9-28-93; Ord. No. 096-049, § 2, 9-24-97; Ord. No. 099-043, § 2, 9-28-99; Ord. No. 003-033, § 1A.2, 9-23-03; Ord. No. 005-055, § 2, 10-11-05; Ord. No. 008-033, § 1.A.2, 9-9-08; Ord. No. 010-033, § 1.A., 9-21-10; Ord. No. 011-059, § 1.A.2, 9-13-11; Ord. No. 013-036, § 1.A.2, 9-10-13)

Sec. 82-78. Pass-through rate component.

In addition to the water and sewer rates established in sections [82-76](#) and [82-77](#) of this chapter, there may be added to all customers' bills a pass-through component which will be distinguished separately on the utility bill. The pass-through component shall reflect changes in the costs of water purchases, sewer treatment and transportation services which are paid by the town to other governmental entities. The pass-through component may be adjusted monthly as determined by the director and passed automatically to the customers without council approval. Only changes in the costs of water purchases, sewer treatment and transportation services may be automatically passed through to the customers. Changes to any other costs of providing water and sewer services to town customers must be recovered through water and sewer rates approved and adopted by the council.

(Code 1982, § 18-78; Ord. No. 088-050, § 3, 11-8-88)

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; Ord. No. 006-019, § 1.A.1., 4-11-06)

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.

(Code 1982, § 18-79.1; Ord. No. 087-072, § 4, 10-27-87; Ord. No. 008-015, § 1(A), 5-13-08)

Sec. 82-79.2. Security deposits.

(a)

From whom required. All users or consumers of services under this chapter are required to submit a security deposit to the director in the amounts herein described at section 82-79.3. Such deposit in one of the forms specified in paragraph (b) herein is due when the application for service is made.

(b)

Form of security. The applicant for service must submit a security deposit in one of the following forms:

(1)

Cash;

(2)

Surety bond;

(3)

Other equivalent security approved by the director.

(c)

Failure to provide security. The director may discontinue service if a person fails to:

(1)

Make a required security deposit with his application; or

(2)

Increase the amount of his security deposit after being notified that an increase is required.

(Code 1982, § 18-79.2; Ord. No. 087-072, § 4, 10-27-87)

Sec. 82-79.3. Security deposit amounts.

(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:

Customer classification:	Deposit amount:
Single-family residential	\$50.00
Multifamily residential	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
School	An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$500.00
Commercial large (meter size greater than or equal to two inches)	An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$700.00
Commercial small (meter size less than two inches)	An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$150.00
Industrial large (meter size greater than or equal to two inches)	An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$500.00
Industrial small (meter size less than two inches)	An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$100.00
Hotel/motel	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
Sprinkler large (meter size greater than or equal to two inches)	An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than \$500.00
Sprinkler small (meter size less than	An amount equivalent to two times the average estimated monthly bill for the past 12 months, but not an amount less than

two inches)	\$200.00
Fire	\$50.00

(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.

(Code 1982, § 18-79.3; Ord. No. 087-072, § 4, 10-27-87; Ord. No. 008-015, § 1(B), 5-13-08)

Sec. 82-79.4. Use of security deposits.

(a)

Accounting requirements. The director shall keep:

(1)

Accurate records of all security deposits, including, but not limited to, the depositor's name, amounts deposited and deposits refunded; and

(2)

Separate accounts of all security deposits.

(b)

Administration of deposits. The director shall administer cash security deposits in accordance with the following rules:

(1)

A deposit will be applied toward payment of the final bill amount due the city when a service account is closed or becomes inactive due to delinquency.

(2)

A deposit, less amounts due for service, will be returned to the customer when service is discontinued.

(3)

Deposits may be invested by the city, but sufficient cash shall be accounted for and kept on hand to meet the normally anticipated level of refunds.

(Code 1982, § 18-79.4; Ord. No. 087-072, § 4, 12-27-87)

Sec. 82-79.5. Reserved. 

Editor's note—

Ord. No. 008-015, § 1(C), adopted May 13, 2008, repealed § 82-79.5 which pertained to security deposit refunds. See also the Code Comparative Table.

Sec. 82-79.9. Billing regulations. 

Water and sewer charges shall be billed on one 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 24th 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.

(Ord. No. 008-015, § 1(D), 5-13-08)

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.

(Code 1982, § 18-80; Ord. No. 087-072, § 5, 10-27-87; Ord. No. 008-015, § 1(E), 5-13-08)

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 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.

(Code 1982, § 18-80.1; Ord. No. 087-072, § 6, 10-27-87; Ord. No. 006-019, § 1.A.3., 4-11-06; Ord. No. 008-015, § 1(F), 5-13-08)

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 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.

(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.

(f)

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.

(g)

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; Ord. No. 006-019, § 1.A.4., 4-11-06; Ord. No. 008-015, § 1(G), 5-13-08)

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 the ~~director~~ department has not received complete payment of the amount(s) shown on the bill, the director shall mail to, or personally serve upon the customer, a notice of termination ~~not less than three days after the payment date.~~ during the final seven days of the month during which the delinquent bill due date falls. Such termination will be effective on the due date of the current bill due (not on delinquent bill due).

(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 ten days from the date of the notice of termination;~~ which is the due date of the current bill due (not of the delinquent bill due).

(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 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 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. (including 1) \$50.00 trip fee, 2) delinquent charges, 3) current bill and 4) additional security deposit in the amounts 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. Whether or not service is disconnected, if a crew member is dispatched to disconnect service, then a \$50.00 trip fee will be charged in addition to the delinquent charges.

(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.

(Code 1982, § 18-80.3; Ord. No. 087-072, § 6, 10-27-87; Ord. No. 006-019, § 1.A.5., 4-11-06; Ord. No. 008-015, § 1(H), 5-13-08)

Sec. 82-80.4. Liability of the town for failure to provide or for interruption of service.

All persons having boilers, air conditioning equipment or other water consuming devices, which may become damaged due to interruption of water service, and which are supplied directly with town water, do so at their own risk. Except for willful and intentional misconduct, the town shall not be liable for any damage that may occur on account of the water being cut off for any purpose, for failure to provide any service, or on account of the breaking of any pipe or fixture by pressure of the water from the town mains.

Except for willful and intentional misconduct, the utilities department or the director of utilities thereof shall not be responsible, nor shall the town be liable for any damage by water resulting from defective plumbing, broken or faulty services or water mains, or from water being cut off, or resulting from any condition of the water itself or any substance that may be mixed with or be in the water as delivered to the consumer.

(Code 1982, § 18-80.4; Ord. No. 087-072, § 6, 10-27-87)

Sec. 82-81. Reserved.

Sec. 82-81.1. Joint owners or users; liability for charges; transfer of accounts.

(a)

Benefits in general. Service is deemed to benefit:

(1)

- (2) The occupants of premises served;
- (3) The owners of premises served; and
- (b) The property served.

Charges a lien. If delinquent charges remain unpaid and the procedures of [section 82-81.2](#) are substantially followed, those delinquent charges shall constitute a lien against the real property served.

- (c) *Personal liability.* The customer in whose name the account for service exists has the primary personal liability for service rendered under this chapter. Nevertheless, where service is provided to a tenant or occupant in a single-family residence or to more than one tenant or occupant through a master meter or single service connection, if the customer in whose name the account exists fails, refuses or is unable to pay charges due, the other owners and occupants will remain jointly and severally liable for the unpaid delinquent charges. The director may refuse or discontinue service in the same manner provided for in section 82-80.3 until all delinquent charges are paid.

(Code 1982, § 18-81.1; Ord. No. 087-072, § 6, 10-27-87)

Sec. 82-81.2. Lien procedure.

- (a) *Authority.* The city is authorized, in accordance with provisions of Local Government Code Ch. 149 section 402.017(c) Article 1175(11) of the Texas Revised Civil Statutes, to perfect the lien upon property which occurs as provided in section 82-81.1, for the purpose of securing the payment of delinquent charges incurred as a result of service to the property.
- (b) *Execution and recording.* The lien must be:
 - (1) Executed by the city manager and acknowledged by a notary public of the State of Texas; and
 - (2) Filed in the deed or lien records of the county in which the property is located.
- (c) *Additional charges; correction lien.* Should additional delinquent charges be incurred subsequent to the date of the original lien's execution, a correction lien may be executed and filed, fixing the additional delinquent charges. The correction lien, when

filed of record, shall relate back to the date of recording of the original lien and shall become a part of the original lien.

(d)

Suit to foreclose. The city attorney, at the request of the director, may file suit to judicially foreclose the lien in a state court of competent jurisdiction. The suit may not be filed earlier than 60 days after the recording date of the lien.

(e)

Release of lien. Upon certification by the director that all delinquent charges which existed against the property have been fully paid, the city manager is authorized to execute a release of the lien. After execution, the director shall deliver the release to the customer to be filed in the deed or lien records of the county in which the property is located.

(f)

Cumulative remedies. This section is cumulative of any other remedies, methods of collection or security available to the director or the city under the Charter and divisions of the city or under state law. This section does not affect the director's authority to refuse or to furnish service when delinquent charges exist.

(Code 1982, § 18-81.2; Ord. No. 087-072, § 6, 10-27-87)

Sec. 82-81.3. Notice of lien.

(a)

Form of notice. Prior to recording of the water lien, the director shall send notice, by certified mail, return receipt requested, that a lien will be fixed on the property in accordance with law. The notice must provide a time, place and means by which the charges causing the lien may be paid. The notice must be sent to:

(1)

The customer in whose name the account for service to the property exists;
and

(2)

The last known record owner of the property according to the tax rolls of the city, if the customer is not the owner.

(b)

Absence of notice. Absence of receipt of notice does not affect the enforceability of a lien perfected under section 82-81.2.

Sec. 82-82. Reserved.

Sec. 82-82.1. Notice of vacancy or transfer of property.

(a)

When notice given. The customer, or the owner of property served, must notify the director within three days after the occurrence of:

(1)

Any total vacancy in the property served;

(2)

Any change in ownership, whether by sale, foreclosure, business reorganization or otherwise; or

(3)

Any occupancy of previously vacant property.

(b)

Failure to notify. Failure to give notice in accordance with subsection (a) shall render the owner and the customer, if he is not the owner, jointly and severally liable for all charges due against the property. Upon receipt of notice under subsection (a)(1) or (a)(2), the director shall prepare a final bill for the account.

(Code 1982, § 18-82.1; Ord. No. 087-072, § 6, 10-27-87)

Sec. 82-82.2. Permission of owner or customer to be secured before using water; use before filing application for service.

(a)

Use without consent. A person commits an offense if, where water is furnished to any premises, the person knowingly takes water from any faucet or water connection on the premise without first securing the consent of, and making arrangements with, the owner of the premises or the customer in whose name the account exists. This section does not apply to a person employed by the city who is engaged in work of an emergency nature in his official capacity as a city employee.

(b)

Use without application. A person commits an offense if he knowingly diverts or uses water from any part of the water system without making application and without receiving the director's consent to use a service. Absence of an account for service on file with the department constitutes prima facie proof of the lack of the director's consent to use a service.

(Code 1982, § 18-82.2; Ord. No. 087-072, § 6, 10-27-87)

Sec. 82-83. Reserved.

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; Ord. No. 006-019, § 1.A.6., 4-11-06)

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; Ord. No. 006-019, § 1.A.7., 4-11-06)

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 leak adjustment may be given to a customer within any calendar year.

(Ord. No. 008-015, § 1(I), 5-13-08)

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.

(Ord. No. 008-015, § 1(J), 5-13-08)

Secs. 82-84, 82-85. Reserved.