

ORDINANCE O-2009-7

AN ORDINANCE AMENDING CHAPTER 19, "UTILITIES" ARTICLE I, "WATER AND SEWER SERVICE", ARTICLE II, "WATER AND SEWER SYSTEM EXTENSIONS", AND ARTICLE III, "WATER AND SEWER SERVICE", OF THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS BY REVISING THE TERM "OPERATIONS MANAGER" TO "DIRECTOR OF UTILITIES AND PUBLIC WORKS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, the City Council is committed to ensuring a safe and dependable supply of water for the citizens of Tyler; and

WHEREAS, the City Council is committed to operating and maintaining a quality wastewater collection and treatment system for the protection of natural water quality; and

WHEREAS, the City of Tyler has established Tyler Water utilities as the City department responsible for operating maintaining the water resources of the City of Tyler; and

WHEREAS, Chapter 19 of the City of Tyler Code of Ordinances governs the operation and maintenance of Tyler Water Utilities; and

WHEREAS, Chapter 19 assigns certain responsibilities to the position of "Operations Manager"; and

WHEREAS, the position defined as "Operations Manager" in Chapter 19, at the time it was last amended, has been reclassified as "Director of Utilities and Public Works"; and

WHEREAS, to ensure protection of the City's water resources and provide seamless management of Tyler Water Utilities;

NOW THEREFORE, IT BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 19, "Utilities" Article I, "In General", Article II, "Water and Sewer System Extension", and Article III, "Water and Sewer Service", is hereby amended by revising the term "Operations Manager" to "Director of Utilities and Public Works" as follows:

Chapter 19 UTILITIES

ARTICLE I. IN GENERAL

Sec. 19-1. Definitions.

As used in this chapter, the following words and terms shall have meanings as follows:

Business Office Manager means the Water Utilities Business Office Manager of the Division. (0-2004-93, 11/24/04)

City means the City of Tyler. When used as the subject of action, refers to action taken by authority of the City Manager.

Developer means one who subdivides or provides to tracts of land the infrastructure necessary or convenient for urban usage. As used in Chapter 19, this term includes the owner of property being developed.

Developmental improvements mean street, drainage, and water and sewer extension improvements.

Division means Tyler Water Utilities Division which is charged with operation and control of all facilities used by City in furnishing a supply of water to its customers.

Engineer means a person duly authorized under State law, as heretofore or hereafter amended, to practice the profession of engineering in the State of Texas.

Inspector means the City representative who is specifically assigned to inspect any or all parts of the water and sanitary sewer system, particularly new subdivision extensions.

Manager means the Water Production and Water Quality Manager for the Division.

Off-site main means water or sewer mains built to connect a development for which an extension contract has been executed, with the City water or sewer system and located outside the boundaries of the development.

Director means the Director Utilities & Public Works of the Division.

Oversized lines mean water or sewer mains which are both: (a) larger than eight (8) inches in diameter; and (b) larger than needed to serve the development for which an extension contract has been executed.

Standard specifications means the current standard specifications for waterworks and sewerage improvements in the City.

Design guidelines for water and sewer lines mean the current guidelines for design of water and sanitary sewer system improvements within subdivision developments in the City.

Sewer means sanitary sewer and does not refer to a stormwater sewer.

Utility means the water or sewer system owned by the City of Tyler and the service provided in connection with this system. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-2. Authorization of landowner.

Any application for extension of water or sewer service shall be signed by the developer who shall furnish proof that developer:

1. is record owner of the property being developed; or
2. has a written contract signed and acknowledged by the owner authorizing development of the property. (Ord. No. O-96-54, 6-26-96)

Sec. 19-3. Street use fee.

The City Water and Sewer Utility Operations Fund shall pay to the City general fund a street use fee equal to five percent (5%) of the gross receipts earned from all sales of those services and other revenue generated by the operation of the water and sewer funds. Such street use fees shall be payable monthly to the Accounting Department, with such budgetary transfers to be made not later than thirty (30) days after the expiration of the month for which payment is due. (Ord. No. O-96-54, 6-26-96; O-97-42, 9-4-97) (0-2002-40, 9-11-02)

Sec. 19-4. Water and Sewer Infrastructure Plan.

A Water and Sewer Infrastructure Plan has been adopted as part of an overall City Comprehensive Plan. A copy is available in the Water Utilities and City Clerk's Office. (0-99-91; 11/17/99)

Secs. 19-5-19-9 Reserved.

ARTICLE II. WATER AND SEWER SYSTEM EXTENSION

Sec. 19-10. Regulations for extension of water and sewer mains inside City limits.

a. The City will, at its expense, construct or extend water or sewer mains to serve individual residential lots which are developed in the City when such construction or extension will require one hundred (100) feet or less of water or sewer line.

b. The City will, at its expense, construct or extend water or sewer mains to serve a group of individually owned residential lots which have been developed at least one year or more in the City, when such construction or extension will require an average of one hundred (100) feet or less of water or sewer lines for each connection.

c. The developer of a platted subdivision shall advance the cost of construction or extension under the following terms:

1. The developer shall present to the Director a minimum of six (6) complete sets of detailed water and sanitary sewer construction plans, specifications, and contract documents; prepared, signed and sealed by a registered professional engineer. The subdivision and platting of the property to be served must be in full compliance with City ordinances

governing and regulating the platting, subdivision and development of land (City Code Chapter 10). The developer shall provide a one-inch water and a four-inch sewer service connection to each platted lot. Such service connections shall be shown on the plans for water and sewer service of the subdivision and such connections shall be installed at the time that water and sewer service is extended to the subdivision. The plans, specifications and contract documents shall comply with the City design guidelines for water and sewer lines and City specifications.

2. The Director shall verify plat approval by the Planning and Zoning Commission and shall verify that said plat has been recorded in the Plat Records of Smith County, Texas. (Ord. 0-2003-38, 7/23/03)

3. Plans and specifications shall be presented to the Director for final approval and authorization to advertise for bids in accordance with State law.

4. Upon receipt of an approved set of construction plans, specifications and contract documents, the Director shall set a date for receiving construction bids from qualified contractors in accordance with state laws and the City purchasing procedure. The cost to the developer shall be the total amount bid by the lowest qualified bidder plus a five percent (5%) contingency.

5. Bids shall be referred to the Director for tabulation and award.

6. Bid tabulation of the successful bidder shall be presented to the owner or developer, who shall advance the total construction cost to the City.

7. The Director shall certify to the City Manager that the funds necessary to construct the water and sewer connections were received from the developer and were properly deposited prior to the execution of the construction contract.

d. The City Manager or his designee is hereby authorized to employ the procedures to be described herein when deemed necessary to the efficient operation of the City and in the best interest and welfare of the public. (Ord. No. 0-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-11. City participation in certain projects.

a. It is the policy of the City to plan water and sewer extensions for efficient future use. In some cases the most efficient way to provide service to an area involves the use of oversized lines or sewage lift stations. If a development is proposed in a location in which the master plan for utilities provides that oversized lines or sewage lift stations should be used, the Director may require installation of such lines or lift stations. When oversized lines are required, the developer shall pay the costs of providing service to the development and, subject to availability of funds, the City will pay the cost of increasing the line size to the size required. In the case of lift stations, the City may also pay the cost of capacity in excess of that required to serve the development, subject to the availability of funds.

b. The construction of sanitary sewage lift stations and pressure lines will generally not be permitted unless it is impossible to connect to a gravity system. If a lift station and pressure line is required, complete design, including site work, all weather access, etc., shall be included in the plans and specifications. Lift stations shall be designed in accordance with current state and federal requirements and shall have either dual electrical power supply or stand-by generator. The minimum lift station capacity shall be one hundred (100) gallons per minute and shall have at least two (2) pumps, each of which shall be capable of pumping the design

capacity of the lift station. The minimum pressure line size is four (4) inch diameter. The cost of lift station, force main and appurtenances shall be borne by the developer. The only portion of lift station, force mains and appurtenances eligible for refund by the City are associated oversizing costs approved by the Director.

c. When the development is to be served by an existing lift station in which the City has contributed the cost to provide excess capacity, the developer shall pay a pro rata cost of that station. The pro rata cost of the station includes land, pumps, motors, building or structure, force main, engineering, inspection, and any other applicable costs. This cost shall be divided by the number of gross acres served to arrive at a cost per acre. The developer shall pay this charge based on the number of gross acres in the subdivision served by that lift station.

d. Any agreement on behalf of the City to pay part of the cost of oversized lines or lift stations shall:

1. be in writing;
2. incorporate the policies of this section;
3. be approved by the Director; and
4. be subject to the availability of funds.

(Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-12. Reimbursements for part of water and sewer improvements.

a. Any subdivision or development on land existing in the City for a minimum of one (1) year in which the owner or developer is required to advance the cost of water or sewer improvements under Section 19-10 c. will be covered by contract. The contract will provide that the owner or developer shall deposit with City the cost of construction of said water or sewer improvements as determined by competitive bid or as estimated by the Director plus five percent (5%). The contract shall provide that City shall reimburse the developer for part of the money advanced (exclusive of lift station, force mains and water or sewer services) for eligible cost of water or sewer main extensions when service connections are made to the lines (during the period of five (5) years following the date of the contract).

b. The developer is eligible for the maximum reimbursement when the number of connections made to the extended lines during the five-year period equals or exceeds the number of feet of constructed lines divided by one hundred (100). For example, if one thousand (1,000) feet of line were constructed in accordance with the refund contract, at least ten (10) lots must be connected in order to entitle the developer to a maximum refund. If there is less than one lot for each unit of one hundred (100) feet of line, then the total eligible refund shall be reduced proportionately. In the example above, if only nine (9) lots had been connected, the eligible reimbursement would be nine-tenths (9/10) of maximum. In calculating the number of lots connected to the extended lines, credit is given for lots connected to the extended lines which are owned by persons who are not parties to the reimbursement contract as well as those owned by the developer.

c. The total amount advanced, the total length of line, and number and description of lots to be developed and the eligible refund per lot shall be made a part of the contract. City will, three (3) years from date of contract, determine the number of lots that have been developed through the first three (3) years of contract. This number multiplied by the amount to be reimbursed for each lot will determine the amount of the earned refund to be returned as a result of the first three (3) years development.

d. City shall refund to the developer the fixed amount for each lot developed and connected to City water and sewer lines. The refund payments will become due and payable at

the end of each year beginning three (3) years from date of contract. The payment will be over a period of five (5) years. The first payment will be for one-fifth (1/5) of the earned refund, and shall be due and payable three (3) years from date of contract. The second, third, fourth, and fifth payments shall become due four (4), five (5), six (6), and seven (7) years, respectively, from the date of contract. One-fifth (1/5) of the refund earned during the fourth and fifth years of the contract, shall become due at the end of the contract year in which it was developed, and at the end of each of the next four (4) years.

e. The maximum eligible refund shall be twenty-five (25) percent of eligible costs. Eligible costs include all costs advanced by the developer of materials, labor and testing for extending water and sewer mains and do not include costs of service connections.

f. The contract shall state that City shall not refund to the developer any part of the cost advanced for any lot(s) which have not been developed and connected to the water and sewer lines of the Utility on the last day of the fifth year from date of contract. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-13. Extensions in development having private streets.

The extension of water or sewer system lines for domestic service or fire protection within residential developments having private street(s) shall be in accordance with the following:

a. Off-site mains required to serve developments under this section may be constructed under either section 19-10 or section 19-14.

b. Developer will prepare a contract having the following stipulations:

1. Developer shall award the contracts for construction of water or sewer facilities, including off-site mains and service connections.

2. Developer shall pay all of the cost of all water or sewer facilities, including off-site mains and service connections without participation or refund by City.

3. Design, development of construction plans, specifications and contract documents, and construction staking for the water or sewer facilities to be constructed shall be performed by a professional engineer registered in Texas and shall conform to the same design guidelines and other criteria which govern contracts let by City, including providing as-built plans following completion of construction. The developer shall provide to the Director six (6) sets of construction plans, specifications and contract documents prior to issuance of project work order.

4. Before a developer may award a contract to any prospective contractor for construction of water or sewer facilities, it must be established that the contractor has been approved by the Director.

5. The issuance of an order to commence work shall be approved by the Director and all water and sewer construction shall be subject to inspection and control at any and all times by the City utility inspector. In no case shall any water or sewer facility be installed unless the responsible City inspector is present and gives consent to proceed. Laboratory tests of materials being used shall be made, at Developer's expense, if required by the Director.

6. No final payments to contractors shall be made until after approval and preliminary acceptance by the Director. This approval pertains to the satisfactory completion of the work for which payment is made and shall not constitute approval of the quantities on which the payment is based.

7. Connections of buildings to service connections are prohibited until the water or sewer facilities to which they connect have been declared available for service and had preliminary acceptance by the Director.

8. Title and ownership of all sanitary sewers and water mains constructed under the terms of this option, exclusive of service connections, shall be vested in the City upon final acceptance.

9. Prior to the award of any construction contract, the developer shall convey easements acceptable to the Director covering all land which will be occupied by the proposed lines and water or sewer facilities. The easements shall contain sufficient space to ensure that maintenance or repair of the facility can be accomplished with usual excavation practices.

10. Prior to commencing work, the developer shall furnish the following bonds written on an acceptable form:

(a) A one hundred (100) percent payment bond in the name of City, covering construction of the facility to be built.

(b) A guarantee or maintenance bond for one hundred (100) percent of the cost of improvements in the name of the City covering the facility to be constructed against defects in materials and/or workmanship for a period of one year after completion of the facility and its acceptance by City.

11. In lieu of the bonds required in subpart 10 above, developer may furnish to City a contract guaranteeing payment of the prime contractor and performance, payment, and maintenance bonds written on acceptable forms obtained by such prime contractor in the amount of one hundred (100) percent of the cost of the improvements. The City will be co-beneficiary of such bonds. The contract will be executed by City, developer and prime contractor.

12. Water or sewer facilities constructed under this option will not receive final acceptance by City until all developmental improvements are completed and accepted by the Engineer and Director. Maintenance and reconstruction of the facilities during the period between preliminary and final acceptance will be the responsibility of the developer.

c. All costs of extensions or improvements to the water and sewer systems under this section shall be borne by the developer with no portion of said costs eligible for refund by City. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-14. Contracts negotiated between developer and contractor without formal bids.

a. A developer may request the City in writing to enter into a formal contract providing for installation of all water or sewer facilities in accordance with the terms and procedures set forth herein.

b. The City will enter into a three-way contract having the following stipulations regarding water or sewer construction:

1. The developer shall award the contracts for construction of water or sewer facilities, including off-site mains and service connections.

2. The developer shall pay all of the cost of all water or sewer facilities, including off-site mains and service connections without participation or refund by the City.

3. Design, development of construction plans, specifications and contract documents, and construction staking for the water or sewer facilities to be constructed shall be performed by a registered professional engineer in Texas and shall conform to the same design guidelines and criteria which governs utilities construction contracts let by the City, including providing to the City as-built plans following completion of construction. The developer shall provide to the City five (5) sets of construction plans, specifications and contract documents prior to issuance of project work order.

4. Before a developer may award a contract to any prospective contractor for construction of water or sewer facilities, it must be established that the contractor has been approved by the Director for work on City water and sewer systems.

5. The issuance of order to commence work shall be approved by the Director and all water and sewer construction shall be subject to inspection and control at any and all times by the department's inspection personnel. In no case may any water or sewer facility be installed unless the responsible City inspector is present and gives consent to proceed. Laboratory tests of materials being used shall be made as may be required by the City as necessary to assure compliance with governmental specifications.

6. Prior to commencing work, the developer shall furnish the following bonds written on the City forms:

(a) A one hundred (100) percent payment bond in the name of the City, covering construction of the facility to be built.

(b) A guarantee or maintenance bond for one hundred (100) percent of the cost of improvements in the name of the City covering the facility against defects in materials and/or workmanship for a period of one year after completion and acceptance of the facility by the Director.

7. In lieu of the bonds required in subsection 19-14(b)(6) above, the developer may furnish to City a contract guaranteeing payment of his prime contractor and performance, payment, and maintenance bonds written on City forms obtained by his prime contractor in the amount of one hundred (100) percent of the cost of the improvements. The City will be co-beneficiary of such bonds. The contract will be executed by City, developer and prime contractor.

8. Final payments to contractors shall be approved by the Director prior to payment and only after the improvements have had at least preliminary acceptance by City. This approval pertains to the satisfactory completion of the work for which payment is made and does not constitute approval of the quantities on which the payment is based.

9. Prior to the award of any construction contract, the developer shall convey easements acceptable to the Director covering all land which will be occupied by the proposed lines and water or sewer facilities.

10. Connections of buildings to service connections are prohibited until the water or sewer facilities to which they connect have been declared available for service and had preliminary acceptance by the Director.

11. Title and ownership of all sanitary sewers or water mains constructed under the terms of this option, exclusive of service connections, shall be vested in the City upon final acceptance by City.

12. Water or sewer facilities constructed under this option will not receive final acceptance by the City until all developmental improvements are completed and accepted by City. Maintenance and reconstruction of the facilities during the period between preliminary and final acceptance will be the responsibility of the developer.

(a) No construction shall begin under the terms of this section until an agreement has been executed by the developer and the City, in which the developer agrees to all requirements of this section.

(b) Water or sewer extension projects in which the City pays a portion of the cost may not be constructed pursuant to the rules provided by this Section. (Ord. 0-97-27, 5/28/97) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-15. Apartment complexes, office parks, shopping centers and other developments without dedicated water and sewer easements.

a. The extension, for domestic service or fire protection, of water or sewer system lines within apartment complexes, office parks, shopping centers and other developments without dedicated water and sewer easements shall be constructed in accordance with Section 19-13b., subparts 1 through 8. Water mains and sanitary sewers constructed on private property shall be considered service connections and shall remain the property of the landowner.

b. Off-site mains required to serve developments under this section may be constructed under the provisions of either section 19-10 or section 19-14. (Ord. No. O-96-54, 6-26-96)

Sec. 19-16. Extensions or Service beyond City limits.

a. The Director shall not permit and will not undertake the construction and/or extension of water and/or sewer mains and pipes outside the City limits except to provide service to City residents. However, nothing in this section shall prevent the City Council from allowing construction or extension outside the City limits when in the exclusive judgment of the City Council such is found to be in the best interest and welfare of City.

b. Where there are water and/or sewer mains existing outside the City limits and it is possible to provide service to adjacent property and a request for water or sewer service is received from outside the City limits, the Director may allow service on the condition that said service is delivered and provided in accordance with all applicable laws and that the applicant agrees not to contest any future annexation procedure.

c. Each person applying for service under this section shall be required to indemnify and hold harmless the City from any damage or injuries which may be incurred or suffered as a result, directly or indirectly, of being connected to City water and/or sewer system.

d. Service shall be provided only upon the condition that the service may be discontinued by City with just cause. City shall not incur liability by reason of discontinuing water or sewer service. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-17. Authority of inspector.

The inspector has authority to enter any construction site in which the construction of water or sewer facility are to be provided in order to inspect the construction of or test site condition or materials used in connection with the construction. The inspector does not have authority to revise, alter, or revoke the requirements of City rules, specification regulations and procedures or the approved contract documents for the job. Inspection or lack of inspection will not relieve the contractor or developer of any obligation to perform the work in accordance with the contract documents or applicable laws or regulations. (Ord. No. 0-99-80, 10/20/99)

Sec. 19-18--19-19 Reserved.

ARTICLE III. WATER AND SEWER SERVICE

DIVISION A. WATER SERVICE

Sec. 19-20. Reserved.

Sec. 19-21. Water meters required; repairs.

Except as specifically provided in this Code, all water furnished by the Utility to its users shall be measured by meter. The size, type and right to own and control all meters used by the users of its water shall be determined by the Director and will be provided in accordance with section 19-60 e. Repairs made to correct manufacturing defects and defects caused by normal wear shall be made by the Division without expense to the customer. When replacements, repairs or adjustments of any meter or meter box are rendered necessary by the act, neglect or carelessness of the owner or occupant of any premises, any expenses shall be charged against and collected from the owner or occupant of the premises and if not paid, service will be discontinued. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-22. Due date; place of payment.

Each bill for water or sewer service becomes due and payable each month at the City of Tyler Utilities Office. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-23. Supplying water to another by user.

No customer may, without the written permission of the Division, supply water to other persons or to other users or allow them to take it. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-24. Extending water service to another premises.

After water is introduced into any building or on any premises, lines from that building may not be extended by any plumber or any other person to another premises. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-25. Separate service lines.

Two (2) houses are not permitted to be supplied with one service line. Every user shall be supplied by a single service pipe line and meter from a water main located in a public street or easement adjacent to the property receiving service. An exception may be made by special permission of the Director when separate service lines would create a hardship, but in no case will two (2) users be supplied by a single service line smaller than one (1) inch diameter.

The Director may, at its option, allow the construction of a single service line connection to service two properties using a “y” at the common/joint property line. The Division shall be responsible for maintenance of that portion of service line extending from the main to the “y” and meters located at the common/joint property line. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-26. Single connection and commercial classification for certain multiple dwellings.

Apartment houses, townhouses, condominium dwellings, mobile home parks under single ownership and other buildings designed for or occupied exclusively by three (3) or more families may be provided water service with a single connection to the main and a single meter. Service shall be classified as commercial service and shall be provided at rates established by the City Council. (Ord. No. O-96-54, 6-26-96)

Sec. 19-27. Tapping of water mains.

It is unlawful for any person other than an authorized Division employee or contractor employed by the Division to tap any water main, make any connections with the water main, or extend service pipes from a water main or install a curb stop and meter box. All connections shall be under exclusive control of the Division. Water main taps, service lines, curb stops, meters, meter boxes, and all other appurtenances installed shall be paid for in advance according to schedule of prices in Section 19-22. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-28. Diversion of water from metered flow.

Whoever bypasses a water meter belonging to the Division, or prevents a water meter from registering the amount of water passing through such meter, or in any way interferes with the proper action or just registration of a meter, or, without the consent in writing of the Director, diverts the water from any pipe(s) of the water utilities, or otherwise uses, or causes to be used, without the consent of the Director, any water produced or distributed by the Division, or retains possession of, or refuses to deliver any meter or other appliance loaned by the Division for the purpose of furnishing water through same is guilty of a misdemeanor. The presence at any time on or about a city water meter or pipe or any device or pipes facilitating the:

- a. diversion of water or prevention of its free passage and registration by the meter,
- b. diversion from the meter,
- c. prevention of water reaching the meter,
- d. prevention of the just registration of the meter(s),

e. taking of any water except through a meter as above set forth, shall constitute prima facie evidence that the person owning or having custody and control of the room, building, place or premises where such device or pipe is, knows of the pipe or device and is responsible for its use.

Proof that a person would be financially benefited by the failure of water to be metered, together with proof that the person had access to the place where diversionary or blocking devices were installed is prima facie evidence that the person is responsible for the installation and use of any device used to divert water from metering. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-29. Malicious or willful interference with water service.

It is unlawful for any person, individually or in association with others, to break, injure or tamper with any part of the water utility system, or intentionally interfere with or prevent the running and operation of said system. (Ord. No. 0-99-80, 10/20/99)

Sec. 19-30. Connection to privately owned elevated tanks.

Elevated water storage tanks located on the roofs of buildings for water distribution shall have a single connection to water mains, six-inch diameter or smaller, and shall fill over the top of the storage tank with a minimum twelve-inch air gap between discharge pipe and maximum water level. Said elevation tanks and service connections thereto may be constructed only after approval of detailed construction plans by the Director.

(Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-31. Water used in construction charged to property owner.

Where a temporary authorization to use water for the construction or repair of property, the water used shall be charged to the property owner. A permanent connection for the property may not be authorized until all temporary use charges are paid. The Director reserves the right to estimate the amount of water used whenever precise metering or measurement is not available. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-32. Boilers.

All boilers for heating water shall be provided with safety valves, and check valves shall be placed on service pipes to protect the meters from hot water. Any person failing to comply with this provision shall have the water supply cut off and it shall not be turned on again until such valve shall have been installed. All steam boilers connecting directly with the City supply are required to provide a tank(s) for at least twelve (12) hours storage. Churches, auditoriums, theaters, schools and factories may be supplied through one connection with the water main in the street. (Ord. No. O-96-54, 6-26-96)

Sec. 19-33. Responsibility for leakage.

All property owners, their agents and tenants, shall be held responsible as consumers for loss of water due to leakage in pipe or plumbing inside the discharge side of the meter or on said property, and if lost water is not paid for according to rates provided herein, when it becomes due, the water service shall be cut off and not turned on until all claims are paid. Service will not be restored until all leaks have been repaired to the satisfaction of the Director. If the Director or Business Office Manager determines that water loss has occurred due to a concealed or hidden leak and without the knowledge of the customer, the Director or Business Office Manager may make an adjustment to no more than three (3) monthly water bills affected by the leak. The customer will pay no less than the normal water use plus one-half (½) of the calculated loss due

to hidden leak. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. 0-2004-93, 11/24/04) (Ord. No. 2009-7, 2/11/09)

Sec. 19-34. Right of entry by Division.

a. Every consumer shall at all reasonable times permit a Division representative to enter the premises and building for examination of pipes and fixtures, and the manner in which the water is used, and refusal by any consumer shall result in refusal of water supply from the Division until such permission is granted.

b. Every consumer who uses a an unmetered sprinkler system for the purpose of fire protection shall at all reasonable times permit the Division inspector to enter the premises and building for examination of pipes and fixtures and the manner in which the water is used, and refusal by any consumer shall result in refusal of water supply from the Division until such permission is granted. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-35. Repair or renewing of water service lines.

The Division reserves the right to make all repairs and renewals of service lines from main to meter and it is unlawful for any other person to repair or renew service lines from main to meter without written consent of the Director.

(Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-36. Cutting off water for repair work.

a. The Division reserves the right to discontinue temporarily and to reconnect without notice the water supply to all users for making repairs, connections, extensions and cleaning of mains, machinery, storage reservoirs or any other appurtenances to the water supply and distribution system. All users having boilers, air conditioning equipment or other water consuming devices, which may become damaged due to interruption of water, connect to the City utility system at their own risk. City shall not be liable for any damage that may occur to water consuming devices due to the water being cut off for any purpose. Further, the City shall not be liable for any damage to plumbing, pipes or fixtures on premises caused by pressure from City water system or for the freezing of pipes.

b. The City further reserves the right to discontinue water service to enforce a user's obligation to repair water or sewer facilities owned by the user whenever such failure causes waste of water, contamination of potable supplies, or unsanitary conditions. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-37. Cross-Connection Control Program.

a. No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the Texas Commission on Environmental Quality Rules and Regulations for Public Water Systems and this ordinance. The City of Tyler Director and Public Works shall discontinue water service if a required backflow prevention assembly is not installed, maintained and tested in accordance with the Texas Commission on Environmental Quality Rules and this ordinance.

b. Definitions

1. Air gap -- The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water to a tank, fixture, receptor, sink, or other assembly and the flood level rim of the receptacle.

2. Backflow prevention assembly -- A device that is designed to prevent a physical connection between the public drinking water supply and a potential source of contamination.

3. Connection -- A single family residential unit or each commercial or industrial establishment to which drinking water is supplied from the system.

4. Contamination--The presence of any foreign substance (organic, inorganic, radiological or biological) in water which tends to degrade its quality so as to constitute a health hazard or impair the usefulness of the water.

5. Cross-connection--A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree in the treatment process.

6. Health hazard--A cross-connection, potential contamination hazard, or other situation involving any substance that can cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable drinking water supply.

c. Backflow Prevention Assembly Installation, Testing and Maintenance

1. All backflow prevention assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against high health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester.

2. All backflow prevention assemblies shall be installed and tested in accordance with the manufacture's instruction, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-connection Control (Manual M14) or the University of Southern California Manual of Cross-connection Control.

3. Assemblies shall be repaired, overhauled or replaced at the expense of the customer whenever said assemblies are found to be defective. Original forms of such tests, repairs and overhauls shall be kept and submitted to Tyler Water Utilities within five (5) working days of the test, repair or overhaul of each backflow prevention assembly.

4. No backflow prevention assembly or device shall be removed from use, relocated or other assembly or device substituted without the approval of the Director or their designee. Whenever the existing assembly or device is moved from the present location or can not be repaired, the backflow assembly or device shall be replaced with a backflow assembly or device that complies with this section, the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-connection Control, current edition, or the University of Southern California's Manual of Cross-Connection Control, current edition or the current Plumbing Code of the city of Tyler, Texas, whichever is more stringent.

5. Test gauges used for the backflow prevention assembly testing shall be calibrated at least annually in accordance with the American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current edition, or the University of Southern California's Manual of Cross-Connection Control,

current edition. Copies of the latest calibration reports, verifying the last date of equipment calibration, shall be submitted with each assembly device test report to Tyler Water Utilities.

6. A recognized backflow prevention assembly tester must hold a current endorsement from the Texas Commission on Environmental Quality.

d. Customer Service Inspections

1. A customer service inspection shall be completed prior to providing continuous water service to all new construction or on any existing service when:

(a) the Director or their representative has reason to believe that cross-connections or other contamination hazard exist, or

(b) after any material improvement, correction or addition to the private water distribution facilities.

2. Only individuals with the following credentials shall be recognized as capable of conducting a customer service inspection:

(a) Plumbing Inspectors and Water Supply Protection Specialists that have been licensed by the Texas State Board of Plumbing Examiners.

(b) Certified Waterworks Operators and members of other water related professional groups who have completed a training course, passed an examination administered by the commission or its designated agent and hold a current endorsement issued by the Commission.

3. The customer service inspection must certify that:

(a) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by a properly installed air gap or an appropriate backflow prevention assembly.

(b) No cross-connection between the public water system and a private water system exists. Where an actual properly installed air gap is not maintained between the public water supply and a private water supply, approved reduced pressure-zone backflow prevention is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.

(c) No connection exists which allows water to be returned to the public drinking water supply is permitted.

(d) No pipe or pipe fitting which contains more than 8% lead may be used for the installation or repair of plumbing at any connection that provides water for human consumption.

(e) No solder or flux which contains more than 2% lead can be used for the installation or repair of plumbing at any connection that provides water for human use. A minimum of one (1) lead test shall be performed for each inspection. (Ordinance 0-2006-100, 12/13/06) (Ord. No. 2009-7, 2/11/09)

Sec. 19-38. Fluoridation of water.

The Tyler Municipal Water Supply is fluoridated to maintain a fluoride concentration at the level as recommended by public health authorities. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-39. Water well permit.

Any person proposing to dig, bore or drill a water well within the City limits shall obtain a permit from the Director before beginning work. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-40. Application for permit.

The owner of the land on which the well is to be placed shall file permit application containing the following:

1. Legal description of the property;
2. Location of the well site on the property;
3. Proposed depth of the well;
4. Name and registration number from the water well drillers' board of the well driller;
5. Size of casing, tubing and pump proposed;
6. Method of well completion proposed;
7. Maximum volume of water per day to be used from the well and the purposes for which it is to be used. (Ord. No. O-96-54, 6-26-96)

Sec. 19-41. Vending water.

It is unlawful for any person to sell or resell City water for domestic or any other uses within or without the City without receiving a permit to do so from the Director. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-42. Exposing meter or fire hydrant to damage; moving meter or hydrants.

It is unlawful to build driveways or other traffic ways so as to expose any meter or fire hydrant to damage from traffic. Whenever the property owner requests the moving of any meter or fire hydrant, the moving cost is the expense of the property owner. Upon deposit of any estimated cost of moving the same, the Division shall make the desired change in location. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99)

Sec. 19-43. Use of fire hydrants.

It is unlawful for any person except a Fire Department or Division employee to take off a cap, to open or use water from a fire hydrant. In exceptional cases where water for construction is not otherwise available on a temporary basis, the Director may issue a letter of authorization to allow the use of fire hydrants for construction water. In the event such permission is granted, it shall be according to terms prescribed by the Director in said letter of authorization. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-44. Private Fire Hydrants and Maintenance.

Where required by the Fire Department, or insurance companies for adequate fire protection on private premises, property owners shall be permitted to install and maintain private fire hydrants. All hydrants shall conform to current City standards and shall be approved by the Director and the Fire Marshal prior to installation. The owners shall grant the City permission to inspect, flow and paint the hydrant.

If the need for fire hydrant repairs are discovered during a periodic inspection by Division, the property owner will be notified of the necessary repairs and instructed to complete the repairs at the owner's expense, within thirty (30) calendar days. At the end of the thirty (30) day period, a follow-up inspection of the fire hydrant will be performed by the City. If the indicated repairs have not been completed, the Director may undertake the necessary repairs, including the installation of a new fire hydrant, and bill the property owner for all costs incurred plus an additional \$250.00 penalty for failure of the property owner to make the repairs.

Failure to reimburse the City for all expenses incurred and penalties levied may result in discontinuation of both domestic and fire protection water service. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-45. Sprinkler or fire service.

a. No connection for a sprinkler or fire service may be permitted unless application has been made to and granted by the Director. A meter of the kind and size prescribed by the Director shall be required.

b. The furnishing, installation, maintenance and inspection of all meters and services, checks, bypasses, valves, piping, etc., necessary for the operation of sprinkler systems and fire services shall be at the expense of the consumer.

c. When ground storage reservoirs or fire pumps are installed on private property, such pumps shall discharge into a fire system approved by the Director. An approved check valve to prevent backflow from the fire pump into City distribution system shall be installed in the owner's fire service between the point where the pump discharges into such service and the connection of such fire service to City mains. The water in such fire storage tanks will be maintained in a potable condition and subject to periodic inspection by City personnel. The tanks and water quality shall be maintained in compliance with the requirements of the appropriate state agency (Texas Natural Resource Conservation Commission) and the City. Such tanks shall not be of the pressure type. The delivery of City water to the tank shall be above the tank flow line with a one-foot air gap. The supply line to this tank shall not be controlled by a quick acting valve which will cause water hammer in the distribution system. Water tanks shall be equipped with an overflow pipe at least twelve (12) inches below the City inlet pipe. The overflow pipe shall be protected from access of insects, birds or animal life. The pipe shall be at least two (2) inches in diameter larger than the inlet supply line from the City distribution system. Such storage tank shall be provided with a drain pipe and valve for easy drainage. The drain pipe may not be connected to the City sanitary sewer system. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-46. Division regulations constitute contract.

All provisions of this article pertaining to the Division shall be deemed to be incorporated in every contract between the Division and its customers, and each customer shall be charged with the knowledge of such provisions, and, by applying for and accepting water from Division, to have assented to the provisions hereof. (Ord. No. O-96-54, 6-26-96)

Sec. 19-47. Water and sanitary sewer service furnished to City Departments.

All City Departments shall be provided water and sanitary sewer services under the same terms and at the rates established herein, which they shall pay for from their budgeted funds. (Ord. No. O-96-54, 6-26-96)

Sec. 19-48. Damage in water system.

It is unlawful for any person to deface the houses, walls, machinery, equipment or fixtures connected with or pertaining to the Water Utility System. (Ord. No. 0-99-80, 10/20/99)

Sec. 19-49. Sanitary Control for Protection of Public Water Wells

Groundwater sources shall be protected from the danger of pollution caused by flooding or unsanitary surroundings, such as privies, sewage, sewage treatment plants, livestock and animal pens, solid waste disposal sites or underground petroleum and chemical storage tanks and liquid transmission pipelines, or abandoned and improperly sealed wells, as follows:

a. The following items are not allowed within a 50-foot radius of a well site: tile or concrete sanitary sewer, sewerage appurtenance, septic tank, storm sewer, cemetery, or livestock in pastures.

b. The following items are not allowed within a 150-foot radius of a well site: septic tank perforated drainfield, areas irrigated by low dosage, low angle spray on-site sewage facilities, absorption bed, evapotranspiration bed, improperly constructed water well, or underground petroleum and chemical storage tank or liquid transmission pipeline.

c. Sanitary or storm sewers constructed of ductile iron or polyvinyl chloride (PVC) pipe meeting American Water Works Association (AWWA) standards, having a minimum working pressure of 150 pounds per square inch (psi) or greater, and equipped with pressure type joints may be located at distances of less than 50 feet from a well site, but in no case shall the distance be less than 10 feet. (0-2008-131; 9/24/08)

DIVISION B. SEWER SERVICE

Sec. 19-50. Compulsory connection to sanitary sewer system.

a. Every building required by the building code to have toilet facilities and every building containing a sewage fixture or privy shall be connected to the City sanitary sewer system except premises where connection is not feasible. Connection is hereby declared to be feasible as to any premise abutting a street, alley or other public way or sewer right-of-way in which a gravity sewer line having sufficient capacity to handle sewage from the building exists. Every sewage fixture or privy in use in a building shall be connected to the City sanitary sewer system.

b. Any person(s) owning or occupying improved property within the City which can be feasibly connected to the sanitary sewer system is required to connect such property and the improvements thereon with the sewer if the same exists in the street, alley or other public way or water right-of-way abutting the premises.

c. When City sewer services become available to a residence which was formerly without available service, the occupants of such property shall connect the residence to the sanitary sewer within fifteen (15) years after the same becomes available. Such connections shall be made subject to the applicable charges provided by the then current City ordinances.

d. The Director shall notify the owner or occupant of every building to which sewer service becomes available that service is available to make connection with the sanitary sewer. It is unlawful for any owner or occupant of a commercial building to fail to make connection with the sanitary sewer within one hundred twenty (120) days after receipt of such notice from the Director. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99-80, 10/20/99) (Ord. No. 2009-7, 2/11/09)

Secs. 19-51-19-59. Reserved.

DIVISION C. RATES

Sec. 19-60. Water service rates.

a. There is hereby established a minimum monthly water use charge based upon the size of the water meter installed as follows:

MIMIMUM MONTHLY RATES – INSIDE CITY	
Meter size (in.)	October 1, 2008
5/8	8.35
1	8.35
1 1/2	8.35
2	10.39
3	12.55
4	20.90
6	32.61
8	45.16
10	65.23
12	85.29
MINIMUM MONTHLY RATES – OUTSIDE CITY	
Meter size (in.)	October 1, 2008
5/8	12.53
1	12.53
1 1/2	12.53
2	12.59
3	18.83
4	31.35
6	48.92

8	67.74
10	97.85
12	127.94

(Ord 0-2003-42, 9-10-2003) (0-2005-77, 9-28-05) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

b. Subject to the minimum monthly charges as provided in subsection a. above, the following rates per month shall be charged for water furnished:

CHARGE (per 1,000 gallons):

Volume	
Volume Charge – Inside City (per 1k gal)	
Volume	October 1, 2008
First 2k	Min
Next 23k	2.57
Next 975k	1.67
Next 4mil	1.39
Over 5mil	1.33
Volume	
Volume Charge – Outside City (per 1k gal)	
Volume	October 1, 2008
First 2k	Min
Next 23k	3.86
Next 975k	2.51
Next 4mil	2.09
Over 5mil	2.00

(Ord 0-2003-42, 9-10-2003) (0-2005-77, 9-28-2005) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

c. The monthly charge for private fire protection service shall be as follows:

FIRE LINE FEE	
Size (in)	October 1, 2006
4 A	5.83
6 B	14.61
8 C	29.21
10 D	48.21
12 E	77.44

(0-2005-77, 9-28-2005) (0-2006-79; 9-13-2006)

Water used through a fire protection service for purposes other than testing of system shall be at a rate equal to three (3) times the applicable regular rate for service in City. (Ord 0-2003-42, 9-10-2003)

d. Rates for service outside City are based upon contract price between City and the individual customer which shall be one hundred fifty (150) percent of the rates for service within City.

e. A charge shall be made by the Division for each new tapping of the water mains for a connection, said charge to be determined by the size of the connection and the size of the meter. The fee for making taps and furnishing and installing meters and boxes shall be determined from the following schedule and shall be payable in advance. If a branch were requested with the tap installation on a one-inch tap or larger, a branch charge would be made including the tap charge plus the activation meter charge for each branch tap.

SCHEDULE OF WATER TAP AND METER ACTIVATION FEES		
Size	Tap and Meter Activation	Branch
1" tap x 5/8" meter	622.22	197.16
1" tap x 1" meter	693.24	295.74
1½" tap x 1½" meter	913.72	346.62
2" tap x 2" meter	1133.14	452.62

The tap fee shall include the cost of a tap and service connection from the main line to the meter location when the total length is fifty (50) feet or less and when installation is not by boring or tunneling under a street or other structure. In such cases, the cost of tap and meter shall be the actual cost of furnishing and installing the tap and meter plus a factor of 1.25 to cover overhead and administrative cost. This cost includes all labor, materials and equipment necessary to make the tap, run the service line and set the meter. Where the water tap has been installed according to Division standards by an approved water and sewer contractor, the following schedule shall determine the fee for furnishing the box and meter and installing the meter, said fee being payable in advance.

Size of Existing Tap	Meter Size	Meter Activation Fee
3/4"	5/8"	310.58
1"	5/8"	310.58
1"	1"	381.60
1½"	1½"	460.04
2"	2"	622.22

Ord 0-2003-42, 9-10-2003) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

For sizes other than those shown above, the actual cost of furnishing and installing the tap and meter shall be charged time plus a factor of 1.25 to cover overhead and administrative cost. This

cost includes all labor, materials, and equipment necessary to make the tap, run the service line, and set the meter. By permission of the Director, water services three (3) inches and larger may be constructed by an approved contractor. Meter pits for three-inch and larger meters will be constructed by the customer own sole expense per Division specifications. Where the tap and meter is existing and a customer desires a larger tap and meter, a credit based on the following schedule will be allowed for the existing meter and box.

Size of Meter (inches)	Credit Allowed
5/8	\$ 30.00
1	55.00
1½	140.00
2	170.00

f. Miscellaneous fees and charges:

After hour turn on/off fee	50.00
Delinquent fee	50.00
Connection Fee <i>(Charged when service is moved to a new address)</i>	50.00
Recheck Fee <i>(Charged when customer demands that the meter reading be rechecked and the recheck confirms the original reading; First one free, \$25.00 after that within 12 month period.</i>	25.00
Additional Daytime Trip fee	25.00
Returned check fee	35.00
Meter testing fee	50.00
Plugging of Service main	250.00
Removal of illegal jumper	100.00
Meter removal, Meter Locked, Meter reinstalled	100.00

(Ord. No. 0-2004-93, 9-13-2006) (0-2008-128; 9/24/08)

g. Rates for service outside City shall be based upon a contract price between City and the individual customer. Water and sewer rates shall be at least one hundred fifty (150) percent of the rates for service within City, except that tap fees and meter activations shall be the same as those within City.

h. The water tap and activation fees shall be reviewed annually by the Division to reflect changes in costs experienced by the Division. Changes in the fee schedule shall become effective upon approval by the City Council. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-98-74, 9/2/98) (Ord. No. 0-99- 70, 10-1-99 (Ord 0-2003-42, 9-10-2003))

Sec. 19-61. Averaging charge in case of defective meter.

Should any meter fail to register correctly the amount of water used by a customer since the previous reading, the Division may estimate the water use based on any three (3) previous months average. (Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99- 70, 10-1-99)

Sec. 19-62. Reserved.

Sec. 19-63. Billing; delinquency; reconnection charge.

a. Meters shall be read monthly and the consumer billed with a statement showing the amount due to City for the amount of water used up to the date the meter is read. The bill shall show the due date. If the bill is not paid when due, City shall have the right to turn off or disconnect the water service and/or disconnect sewer service. The same shall not be restored or turned on until such time as the full amount due and owing the City for delinquent water and sewer service is paid together with a fee to cover the cost of disconnecting and restoring such service.

b. If it becomes necessary to disconnect sewer service, the Director shall cause an itemized statement to be prepared for actual cost of disconnection and an estimate for reconnection to such service, and such actual and estimated costs shall be paid prior to restoration of service. If the estimate of cost differs from the actual cost for restoring service, an adjustment will be made in the customer's billing. However, the Director shall provide the customer an opportunity for a hearing prior to discontinuance of service to show cause as to why such service should not be discontinued.

c. If any consumer becomes indebted to the City for service at a previous place of consumption, service at the consumer's current place of service shall be discontinued by the City until payment in full, plus any service charges, is made.

d. No plumber or any other person may open the street curb stop after same has been closed by the Division without a written permit first being obtained from the Director.
(Ord. No. O-96-54, 6-26-96) (Ord. No. 0-99- 70, 10-1-99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-64. Sewer service rates.

a. The following rates per month shall be charged for sanitary sewer service furnished to the users or customers receiving City sanitary sewer services. In calculating the monthly service charge, the rates shall be applied to the volume of water used as measured by the consumer's water meter, except that water usage subject to charges for sanitary sewer service to single-family residences, duplexes, apartment houses, townhouses, condominiums, and mobile home parks shall not exceed ten thousand (10,000) gallons per single-family residential unit monthly. Rates to commercial, governmental and institutional customers will be based on monthly water use subject to customer proof of lower sewage discharged. If the customer is not supplied water by City, the volume of water used shall be determined by metering or measuring devices acceptable to the Division.

RESIDENTIAL AND COMMERCIAL SEWER RATES

MINIMUM MONTHLY RATES – INSIDE CITY	
Meter size (in.)	October 1, 2008
5/8	9.20
1	9.20
1 1/2	9.20
2	11.94
3	14.56
4	25.52
6	41.91
8	58.33
10	85.66
12	111.17
MINIMUM MONTHLY RATES – OUTSIDE CITY	
Meter size (in.)	October 1, 2008
5/8	13.80
1	13.80
1 1/2	13.80
2	17.91
3	21.84
4	38.28
6	62.87
8	87.50
10	128.49
12	166.76

Ord 0-2003-42, 9-10-2003) (0-2005-77, 9-28-2005) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

- b. Subject to the minimum monthly charges as provided in subsection a. above, the following rates per month shall be charged for sewer service based on water consumption below:

VOLUME

Volume Charge – Inside City (per 1k gal)	
Volume	October 1, 2008
First 2k	Min.
Next 23k	1.60
Next 975k	1.49
Next 4mil	1.09
Over 5mil	0.85

VOLUME	
Volume Charge – Outside City (per 1k gal)	
Volume	October 1, 2008
First 2k	Min.
Next 23k	2.40
Next 975k	2.24
Next 4mil	1.64
Over 5mil	1.28

In calculating the monthly rates and charges hereunder for apartment houses, townhouses, condominiums, mobile home parks under single ownership and other buildings designed for or occupied by three (3) or more families, every separate living unit therein shall be considered a separate user or customer receiving services rendered by the City's sanitary sewer system. (Ord 0-2003-42, 9-10-2003) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

c. For commercial and residential structures not supplied with water from the City of Tyler, the following rules apply for sewer service.

For commercial structures not supplied water from the City of Tyler, sewer service shall be metered in a manner approved by the Director.

For residential structures not supplied water from the City of Tyler, sewer service will be based on established rates and 10,000 gallons water consumed (maximum residential sewer charge). (Ord 0-2003-42, 9-10-2003) (0-2005-77, 9-28-2005) (0-2006-79; 9-13-2006)

d. The foregoing rates shall apply to service except industrial waste service, rendered within the City. Rates for service outside the City shall be based upon contract price between City and the individual customer which shall be one hundred fifty (150) percent of the rates for service within the City. (Ord. No. 0-96-54, 6-26-96) (Ord No. 0-98-74, 9-2-98) (Ord. No. 0-99- 70, 10-1-99) (Ord. No. 2009-7, 2/11/09)

Sec. 19-65. Sewer tap and activation fees.

a. Sewer tap fee. Installation of sewer connections (taps) and service connections from the main to the property line or point of user connection shall be performed only by Division employees or a contractor approved by the Director. The following charge shall be made for sewer connections, payable in advance:

Sewer Tap Fee	
Size of Service	Charge
4-inch	\$ 226.84

(0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

b. Activation fee. The tap fee shall include the cost of a tap and service connection from the main to the property line when the total length is fifty (50) feet or less and when installation is not by boring or tunneling under a street or other structure. In such cases the cost of tap and service shall be the actual cost of furnishing and installing the tap and service line plus a factor of 1.25 to cover overhead and administrative cost. Sewer services six (6) inches and larger will require an approved manhole at the junction with the main. The charge for six (6) inch and larger service connection will be the actual cost of construction including labor, equipment, materials and street restoration, times a factor of 1.25 to cover overhead and administrative costs. By permission of the Director, sewer services six (6) inches and larger may be constructed by an approved contractor. It is the responsibility of the property owner to maintain the sewer service from the sewer main to and on owners' property, including the connection to the sewer main. In addition to the sewer tap fee, there shall be payable in advance a sewer activation fee. The following fees shall be charged:

Size of Service	Charge
4-inch	\$26.50
6-inch and larger	\$26.50

The Director may allow the construction of a single service connection to service two properties using a "y" at the joint property line. The Division shall be responsible for maintenance of that portion of service line extending from the main to the "y" located at the joint property line. (Ord. No. 0-96-54, 6-26-96) (Ord. No. 0-99- 70, 10-1-99) (Ord 0-2003-42, 9-10-2003) (0-2008-128; 9/24/08) (Ord. No. 2009-7, 2/11/09)

Sec. 19-66. Sewer utility industrial rates.

a. Calculation based on water used. The City sewer utility industrial rate is calculated by adding the minimum bill which is based on the size of water meter, plus the volume of water used over the minimum, plus a surcharge calculated for any extra strength waste discharged into the system.

TABLE (A1)

MINIMUM MONTHLY RATES – INSIDE CITY	
Meter size (in.)	October 1, 2008
5/8	55.67
1	55.67

1 1/2	55.67
2	55.67
3	55.67
4	55.67
6	55.67
8	59.11
10	87.20
12	110.94

MINIMUM MONTHLY RATES – OUTSIDE CITY	
Meter size (in.)	October 1, 2008
5/8	83.51
1	83.51
1 1/2	83.51
2	83.51
3	83.51
4	83.51
6	83.51
8	88.67
10	130.80
12	166.41

(Ord 0-2003-42, 9-10-2003) (0-2005-77,9-28-2005) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

TABLE (A2)

VOLUME CHARGE FOR WATER USED¹ (per 1,000 gallons):

Volume Charge – Inside City (per 1k gal)		
Volume	October 1, 2008	
First 2k	Min	
Next 998k	1.13	
Next 4mil	0.94	

Over	5mil	0.85
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Volume Charge – Outside City (per 1k gal)		
Volume	October 1, 2008	
First	2k	Min.
Next	998k	1.70
Next	4mil	1.42
Over	5mil	1.28

SURCHARGE FOR EXTRA STRENGTH DISCHARGE	
Based on water used at \$ per mg/1 per 1,000 gallons	
	October 1, 2008
BOD5	0.001856
COD	0.000897
TSS	0.001041

(Ord 0-2003-42, 9-10-2003) (Ord. 0-2005-77, 9-28-2005) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

b. Calculation based on sewage disposal. The City sewer utility industrial rate is calculated by adding the minimum bill which is based on the size of the water meter [see TABLE (A1) above, plus the volume of sewage discharged over the minimum, plus a surcharge calculated for any extra strength waste discharged into the system.

TABLE A3

VOLUME CHARGE FOR SEWAGE DISCHARGED² (PER 1,000 GALLONS)		
Gallons	Inside City	Outside City
First 2,000	Minimum	Minimum
Next 998,000	1.45	2.18
Next 4,000,000	1.24	1.86
Over 5,000,000	1.11	1.67

SURCHARGE FOR EXTRA STRENGTH DISCHARGE	
Based on sewage discharged \$ per mg//1 per 1,000 gallons	

	October 1, 2008
BOD5	0.002650
COD	0.001282
TSS	0.001487

(Ord 0-2003-42, 9-10-2003) (Ord. 0-2005-77, 9-28-2005) (0-2006-79; 9-13-2006) (0-2008-128; 9/24/08)

c. If an industrial user is not connected to the city water system, the minimum charge will be calculated on water system size. The rates charged will be equivalent to the rates charged for metered systems of the same size.

d. If any of the concentrations set forth in the industrial waste ordinance are exceeded, such as, but not limited to chemical oxygen demand (COD) and total suspended solids (TSS), the industrial customer will pay a surcharge in accordance with the preceding extra strength surcharge rates, or as transportation and/or treatment costs may warrant for any other pollutants. Only in exceptional cases will pollutants in excess of permitted parameters be accepted.

e. Industrial rates (I.R.) can thus be calculated by either of two (2) equations:

1. Volume of water used (under 1,000,000 gallons based on a seventy (70) percent return factor):

$$I.R. = M_w + (\text{Rate per 1,000 gals.}) (V_w - 2) + [(\text{COD Surcharge})(\text{COD}-300) + (\text{TSS Surcharge}) (\text{TSS}-250)] V_w$$

2. Volume of sewage discharged (under 1,000,000 gallons):

$$I.R. = M_s + (\text{Rate per 1,000 gals.})(V_s-2) + [(\text{COD Surcharge})(\text{COD}-300) + (\text{TSS Surcharge}) (\text{TSS}-250)] V_s \text{ where:}$$

M_w = The minimum rate for sewer utility use based on the size of water meter.

M_s = The minimum rate for sewer utility use based on the size of water meter, or on the water meter size equivalent.

V_w = The total volume of water used during the month (in thousands of gallons).

V_s = The total volume of sewage discharged during the month (in thousands of gallons).

COD = The established chemical oxygen demand strength of the industrial waste discharged, based on laboratory analyses, and expressed in milligrams per liter (mg/l).

TSS = The established total suspended solids concentration of the industrial waste discharged, based on laboratory analyses, and expressed in milligrams per liter (mg/l).

250 = The surcharge limit for TSS established in the industrial waste ordinance, expressed in milligrams per liter (mg/l).

300 = The surcharge limit for COD established in the industrial waste ordinance, expressed in milligrams per liter (mg/l).

f. Rates for services to industrial waste dischargers outside the city limits shall be multiplied by a factor of 1.5. (Ord. No. 0-96-54, 6-26-96) (Ord. No. 0-98-74, 9/2/98) (Ord. No. 0-99- 70, 10-1-99)

Sec. 19-67. Storm Water/Drainage Surcharge.

a. Establishment of storm water/drainage surcharge.

1. Upon each developed lot or parcel with structural improvement that is located within the City limits there is imposed a monthly storm water/drainage surcharge of six percent (6%) of the combined monthly charge(s) for water, sewer and/or irrigation services charged to residential and commercial property pursuant to Chapter 19, Article III., Division C. Revenues from this surcharge shall be used for the purpose of the creation, operation, planning, engineering, inspection, construction, repair, maintenance, improvement reconstruction, administration, and other reasonable and customary charges associated with the storm water and management and drainage services throughout the City.

2. The total amount of the monthly six percent (6%) surcharge imposed upon residential property pursuant to this Section shall be subject to a maximum charge of \$25.00 per month (\$300.00 per year). The total amount of the monthly six percent (6%) surcharge imposed upon commercial property pursuant to this Section shall be subject to a maximum charge of \$208.33 per month (\$2,500 per year).

b. Definitions. The following definitions shall apply to this Section:

1. Residential property shall mean any property platted, zoned or used for residential purposes, and having an actual account established for water, sewer and/or irrigation services.

2. Commercial property shall mean a developed lot or parcel used for commercial, industrial, institutional, or property otherwise not falling within the definition of residential property in subsection b. above.

c. Creation of Storm Water/Drainage Revenue Fund. A separate fund, within the City's fund structure, shall be created as of the effective date of this ordinance, March 1, 2005. Such fund shall be known as the Storm Water/Drainage Revenue Fund and shall be for the purpose of identifying and controlling all revenues attributable to the surcharge to be used for municipal drainage services that is collected under this Section. All fees collected by the City under this Section after the effective date of this ordinance, March 1, 2005, shall be deposited in the Storm Water/Drainage Revenue Fund. The income derived from the charges established in this Article must be segregated in one or more accounts and completely identifiable from other City accounts. The Director shall be responsible for the administration of this section. Said administration shall include, but is not limited to, establishing any procedures necessary for the administration of the Storm Water/Drainage Revenue Fund and the consideration of variances, developing maintenance programs, and recommending drainage design criteria and standards for municipal drainage services.

d. Exemptions. The following shall be exempt from this Section:

1. Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;

2. property held and maintained in its natural state, until such time that an account for water, sewer and/or irrigation service has been established.

3. a subdivided lot, until water and/or wastewater service has been established or the structure has been built on the lot and a certificate of occupancy has been issued by the City;

4. Property owned by a Federal, State, County or Municipal government, or other political subdivision .

5. Property owned by a public school district.

6. Property owned by a public institution of higher education.

e. The City Council may review the surcharge established in this Section at any time and may, by ordinance, increase or decrease or otherwise alter the surcharge upon a determination that such amendment is necessary.

f. Billing and payment. Billing or statements for the storm water/drainage surcharge established in this Section shall be rendered by the City for all properties subject to the surcharge. Bills shall be payable when rendered by City and shall be considered as received by the customer and/or owner, whether actually received or not, when deposited in the United States mail, postage prepaid, addressed to the utility customer.

1. Bills shall be rendered by the City monthly.

2. Bills shall be for services for the preceding month.

3. Bills are due when rendered, and subject to disconnection of service, and reconnection fees authorized under the provisions relating to water, sewer and/or irrigation charges.

4. Storm water/drainage surcharges shall be billed with the City's water, sewer and/or irrigation billings and shall be identified separately on the bill as a storm water/drainage surcharge. Delinquent fee bills shall be mailed to the customer at the address at which the owner receives other City utility services, or if no other City utility services are rendered, to any known address of the owner.

g. Penalties.

1. Any surcharge due hereunder which is not paid when due shall subject the user to discontinuance of all utility services provided by the City, including water, wastewater and/or irrigation service.

2. Failure to pay any storm water/drainage surcharge when due hereunder is unlawful, and shall subject the violator to the penalties set forth in Section 1-4. (Ord. 0-2005-13, 1/26/05) (Ord. No. 2009-7, 2/11/09)

Sec. 19-68. Reclaimed irrigation water.

Where infrastructure is available and upon authorization by the Director, customers may contract with the utility for the purchase of reclaimed water for irrigation purposes only.

a. Monthly minimum

Meter Size	Inside City	Outside City
1-inch	\$7.80	\$11.70

b. Rate per 1000 gallons.

Gallons	Inside City	Outside City
First 2k	Min.	Min.
Over 2k	\$1.17	\$1.76

(0-2006-79; 9-13-2006) (0-2008-128; 9/24/08) (Ord. No. 2009-7, 2/11/09)

Secs. 19-69 - 19-71. Reserved.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity or the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

Part 3: That any person, firm or corporation violating any provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be February 13, 2009.

PASSED AND APPROVED this 11th day of February, 2009.

Barbara Bass

BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

Cassandra Brager
CASSANDRA BRAGER, CLERK

APPROVED:

Mary C. Landers
MARY C. LANDERS, CITY ATTORNEY

