

Amended by Ordinance No. 07-065  
(September 18, 2007)

**Ordinances adopted not yet codified:**

[07-101](#) adopted December 18, 2007

**ARTICLE I  
DEFINITIONS**

**Section 1.01 Definitions**

This ordinance shall be known as the "Arlington Water and Sewer Code", may be cited as such, and will be referred to herein as "this Code".

**"Abnormal Sewage"** shall mean any industrial waste having a total suspended solids or BOD content in excess of that found in normal domestic wastewater but which is otherwise acceptable into a public sewer under the terms of this Chapter.

**"Biochemical Oxygen Demand (BOD)"** shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter as specified by procedure in Standard Methods, and results expressed in terms of weight and concentration (milligrams per liter - mg/l).

**"Boundary Facilities"** shall mean those water and/or sanitary sewer facilities located in a street, alley, or easement that is common to or between two or more tracts of land of different ownership such that the one facility serves more than one tract of land.

**"City"** shall mean the City of Arlington, Texas.

**"Community Water System"** shall mean a public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. Service connections shall be counted as one for each one-family residential unit to which drinking water is supplied from the system.

**"Condominium"** shall mean a structure of two or more units, the interior space of which is individually owned, and the balance of the property (both land and building) being owned in common by the owners of the individual units.

**"Customer Sewer Facilities"** include all connections and facilities beginning with the connection of the sewer service to the City's main.

**"Customer Water Facilities"** include all connections and facilities on the customer's side of the water meter beginning with and including the connection to the water meter.

**"Director of Utilities"** shall mean the administrative head of the Water Utilities Department of the City, as designated and appointed by the City Manager of the City, or his designated representative.

**"Engineer"** shall mean a person duly authorized under the provisions of the Texas Engineering Act, as heretofore or hereafter amended, to practice the profession of engineering in the State of Texas. The term "Owner's Engineer(s)" shall identify the Engineer(s) employed or retained by the Developer to perform design or engineering functions for the Developer.

**"Inspector"** shall mean the representative of the City who is specifically assigned to inspect any or all parts of the water and sanitary sewer system, particularly new subdivision extensions, but who is without authority to revise, alter, or revoke the requirements of the rules, regulations, policies, and procedures of the City or the approved Contract Documents for the job. Such inspection, or lack of inspection, will not relieve the contractor from any obligation to perform the work in accordance with the requirements of the Contract Documents and/or applicable City, County and State Codes.

**"Non-Community Water System"** shall mean any public water system which is not a community water system.

**"Normal Domestic Wastewater (Sewage)"** shall mean wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 240 mg/1 and BOD is not more than 170 mg/1, and which is otherwise acceptable into a public sewer under the terms of the Industrial Waste and Water Pollution Control Chapter of this Code.

**"Off-Site Facilities"** shall mean the water and/or sanitary sewer mains located outside the boundaries of and not contiguous with the area of development except by point of contact, but that are required in order to join the development to the prior existing system.

**"On-Site Facilities"** is defined as those water and/or sanitary sewer mains situated within or surrounded by a single development. Generally, all discussions of facilities will pertain to on-site facilities unless they are specifically denoted to the "off-site" or "boundary" facilities.

**"Over-Size Cost"** shall mean the difference in cost between the main built and the cost of the size main determined to be the minimum size required to serve the subdivision as determined by the Director of Utilities. The minimum size main upon which oversize cost shall be determined shall not be less than the standard main defined herein.

**"Owner"** or **"Owners"** herein shall refer to the person, firm, corporation or partnership with primary responsibility toward the City to ensure compliance with rules and regulations and the ordinances of the City dealing with subdivision and/or development. The term includes person or persons, firms, corporations, partnerships or agents, attorneys-in-fact, managers or directors, developers, developer's contractors including engineers, builders, planners, etc. Such term as used herein always includes one (1) or more of the above who own all, or any part of, the land which is contemplated to be developed.

**"Person"** as used in this Chapter shall mean any person, firm, association of persons, or corporation, including a public, private, or municipal corporation.

**"POTW"** shall mean Publicly Owned Treatment Works. (Amend Ord 05-079, 9/13/05)

**"Public Water System"** shall mean a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections, or serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of any year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A Public Water System is either a "Community Water System" or a "Non-Community Water System". Without excluding other meanings of "Individual" or "Served", an individual shall be deemed to be served by a water system if he or she resides in, uses as his or her place of employment,

or works in a place to which drinking water is supplied from that system.

**"Residence", "Single Family Residence", "Single Family Residential Property", "Residential Lot", or "Residential Uses"** shall refer to property (a single tract or lot) used solely for residential purposes in "A" (Agricultural) or "R" (Residential) zoning districts.

**"Residential Customer"** shall refer to customers occupying single family residential or duplex property or an individually metered townhome or condominium unit, for billing purposes.

**"Sewer Service"** shall mean that portion of the connecting sewer located in the roadway, street, alley or easement between the sewer main and the right-of-way line or property line and shall consist of the service wye, tee, manhole or tapping saddle and the required length of service pipe.

**"Standard Methods"** shall mean the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation where applicable. These procedures shall be the Standard Methods of examination and analytical process used to determine compliance with this Chapter.

**"Standard Size Sewer Main"** shall mean a sanitary sewer main six inches (6") or larger in diameter.

**"Standard Size Water Main"** shall mean a water main six inches (6") or larger in diameter, adequately supported by eight inch (8") or larger water mains to provide domestic water service and fire protection as recognized by the National Board of Fire Underwriters.

**"Standard Specifications"** shall mean the latest revision of Arlington's "Standard Specifications for Waterworks and Sewerage Improvements in the City of Arlington". See Section 8.01 of this Chapter.

**"Subdivision" or "Development"** is defined as the division of any lot, tract, or parcel of land into two (2) or more parts.

**"Suspended Solids"** shall mean solids, measured in mg/l, that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are largely removable by a laboratory filtration device.

**"Townhouse"** shall mean a single-family dwelling on a separate lot which fronts on a street, a place, a court, or a private access easement which is attached to one (1) or more similar dwellings by a common wall or walls, interior to both, and which, in combination with said attached dwellings, constitutes an architectural whole.

**"Water Utilities Department"**, as used in this Chapter shall mean the City of Arlington waterworks and wastewater system and mains, and all other works of the City directly connected therewith, and all plants, properties, and appliances incident to or connected with the operation of said Water Utilities Department.

**"Water Utilities Office Policies"** are those policies under which the Water Utilities Office operates, as adopted and changed from time to time by resolution of the City Council. (Amend Ord 97-156, 12/9/97)

## **ARTICLE II METERS**

### **Section 2.01    Control of Meters:**

All water furnished by the Water Utilities Department to its customers shall be measured by meters. The size, type, and right to own and control all meters installed or used by customers shall be determined by the Water Utilities Department, which shall keep all meters in repair without expense to customers. It shall be unlawful for any customer to install meters on his service for the resale of water to other customers.

### **Section 2.02    Purchase and Repair of Meters:**

All meters shall be purchased by the water user through the Water Utilities Department, and in the event repairs on same become necessary, such repairs shall be made by the Water Utilities Department at its expense. The meters shall remain the property of the City, whether purchased by the water user or the City.

### **Section 2.03    Charge in Case of Faulty Meter:**

Should any meter fail to register correctly the amount of water used by a customer since the previous reading, the right shall exist on the part of the Water Utilities Department to average the month and charge for water on the basis of any three months average; provided, however, that the months used for the purpose of making the average are comparable to the months the water is used.

**Section 2.04 Determination of Sewer Flow:**

A. The volume of flow used in computing sewage volume surcharges shall be based upon metered water consumption as shown in the records of meter reading maintained by the Water Utilities Department.

Any user who procures any part, or all, of his water supply from sources other than the Water Utilities Department, all or part of which is discharged into the sanitary sewer system, shall install and maintain at his expense, water meters of the type approved by the Director of Utilities for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters shall be read monthly and tested for accuracy when deemed necessary by the Director of Utilities.

B. In those circumstances where a user desires a credit for metered water being consumed but not being returned to the sanitary sewer, a volume credit shall be allowed if said user installs an effluent meter or meters to measure wastewater flow. Said meter shall be installed pursuant to plans and specifications approved by the Director of Utilities, be installed in an approved location, be calibrated annually, and a certified calibration statement for said meter be annually provided to the City, and have a totalization device. The aforementioned calibration shall be witnessed by a representative of the Director of Utilities. In the event that a meter which measures the wastewater ceases to function properly, the volume shall be determined by immediately reverting to reading the water consumption, and using that volume for determination of sewage volume.

C. In those circumstances where a user desires a credit for metered water being consumed but not being returned to the sanitary sewer, and further where one of preceding paragraphs are applicable, it shall be the responsibility of the user to provide satisfactory evidence of discharge reduction upon which an accurate credit may be estimated,

and the Director of Utilities may estimate said discharge upon the presentation of such evidence.

D. If the Director of Utilities finds that it is not practicable to measure the quantity of sewage by the aforesaid meters, he shall determine the quantity of the sewage in any manner or method he may find practicable in order to arrive at the percentage of water entering the sanitary sewer system of the City to determine the sewer service charge.

### **ARTICLE III CHARGES FOR WATER AND SEWER SERVICE**

#### **Section 3.01 Time for Payment of Charges**

A. The meters shall be read to the nearest one thousand (1,000) gallons monthly at approximately the same time each month, and the customer notified, in writing or otherwise, of the applicable charges and the due date for payment of such charges. The customer shall be given a minimum of ten (10) days from notice thereof to make full payment.

B. With the exception of apartment complexes, should a customer fail to make payment, and the account is over an amount equal to a two (2) month minimum water, sewer, refuse or storm water bill with a past due amount in excess of Twenty-Five Dollars (\$25.00) by the next billing date, the customer will be mailed a reminder delinquent notice. This notice shall state that all charges, including previous and current balances, are due and payable on the due date shown on the statement; and, this notice shall state that should the customer fail to make payment or request an administrative review to dispute the validity of the charges on or before the due date shown, water service shall be discontinued without further notice. If the customer's payment of any of the delinquent charges is returned or refused to be paid to the City by the customer's financial institution, notice of the nonpayment shall be given to the customer. This notice shall state that if the customer fails to make payment by cash, cashier's check or money order within ten (10) days from notice, water service shall be discontinued without further notice. (Amend Ord 07-065, 9/18/07)

C. If a storm water account with no water service is delinquent according to the terms stated in Section 3.01(B) and if the Owner of this storm water account is provided any Arlington water services at any other location, including residential, the water service for this

location shall be discontinued according to the terms and processes stated in Section 3.01(B) above. Water service shall be restored once all obligations related to all delinquent fees are met. (Amend Ord 07-065, 9/18/07)

D. Should a customer fail to make a payment or request an administrative review by the due date shown on the notice, should service be discontinued, or should field action be required, a service charge will be added to the delinquent amount due. The delinquent amount plus the service charge must be paid before service is restored. If service is discontinued for nonpayment and the customer, at the time, does not have any deposit or a deposit of sufficient amount to equal that required of a new customer or sufficient to cover a two (2) month bill, the Water Utilities Department shall have the right to require that the delinquent amount, plus the service charge, plus a deposit equal to that required of a new customer or sufficient to cover a two (2) month bill be paid before service is restored. The only forms of payments accepted when a customer is restoring service are cash, cashiers check or money order.

E. Deposits shall be held by the Water Utilities Department until such time as the customer closes the account and discontinues service. If the account has been paid in full at closing, including the final billing, the deposit shall be refunded in full. Should the account not be paid in full, the Water Utilities Department shall have the right to apply the deposit to the account balance and either refund the surplus deposit or bill for the excess account balance.

F. If any customer is indebted to the Water Utilities Department on any account at their then or previous place of consumption, the delinquent amount due at the previous place of consumption may be transferred to the customer's active account and such service shall be discontinued by the Water Utilities Department until payment in full, plus any service charge, is made.

G. Should an apartment complex customer fail to make full payment by the due date shown on the statement, the customer will be mailed a reminder delinquent notice. This notice shall state that all charges are due within fifteen (15) days of said notice. Should the customer fail to make payment or request an administrative review to dispute the validity of the charges within the fifteen (15) day period, water service shall be discontinued without further notice. Procedures following discontinuation of service shall be the same as with other delinquent accounts as stated above. (Amend Ord 07-065, 9/18/07)

**Section 3.02 Water and Sewer Rates**

**A. Water Rates:**

(1) The following rates per month shall be the rates charged for water service furnished to customers within and outside the corporate limits of the City:

<b>Conservation Rates</b>	
Residential Block Structure	
<b>Usage (1,000) gallons</b>	<b>Rate</b>
0-2	\$1.28
3-10	\$1.68
11-15	\$2.55
16-29	\$3.00
≥30	\$3.50
<b>Conservation Rates</b>	
Commercial Block Structure	
<b>Usage (1,000) gallons</b>	<b>Rate</b>
0-15	\$1.68
≥16	\$1.84
<b>Conservation Rates</b>	
Irrigation Block Structure	
<b>Usage (1,000) gallons</b>	<b>Rate</b>
0-29	\$3.00
≥30	\$3.50
<b>Conservation Rates</b>	
Construction Water Block Structure	

<b>Usage (1,000) gallons</b>	<b>Rate</b>	
All usage	\$4.00	
<b>Fixed Monthly Fee</b>		
<b>Meter Size</b>	<b>Water</b>	<b>Wastewater</b>
¾" (<=2,000 gal) Residential only	\$ 4.65	\$ 3.75
¾" (>=3,000 gal) Residential and all other customer classes	\$ 8.16	\$ 7.20
1"	\$ 14.28	\$ 12.13
1 ½"	\$ 32.64	\$ 27.72
2"	\$ 51.54	\$ 44.28
3"	\$ 117.27	\$ 57.77
4"	\$ 188.24	\$100.18
6"	\$ 437.66	\$228.80
8"	\$ 685.83	\$360.76
10"	\$1,030.20	\$541.11

(Amend Ord 07-065, 9/18/07)

(2) The charges set forth in the schedule in the preceding paragraph are based upon the amount of water used, as measured by a single meter or accumulation of several meters, in increments of one thousand (1,000) gallons. (Amend Ord 01-108, 9/14/01)

**B. Sewer Rates:**

(1) The following rates per month shall be the rates charged for sanitary sewer service furnished to customers within and outside the corporate limits of the City where the sewage produced by such customers is a normal strength wastewater (170 mg/1 BOD and 240 mg/1 Suspended Solids), except as provided in Subsections 3.02(B)(2), 3.02(B)(3) and 3.02(C), or in the "Industrial Waste and Pollution Control" Chapter of the Code of the City of Arlington, 1987, as amended.

<b><u>METER SIZE</u></b>	<b><u>FIXED MONTHLY CHARGE</u></b>	<b>CONSUMPTION</b>
¾" (<=2,000 gal) Residential Only	\$3.60	\$2.58/1,000 gallons
¾" (>=3,000 gal) Residential and all other customer classes	6.93	\$2.58/1,000 gallons
1"	12.13	\$2.58/1,000 gallons
1 ½"	27.72	\$2.58/1,000 gallons
2"	44.28	\$2.58/1,000 gallons
3"	57.77	\$2.58/1,000 gallons
4"	100.18	\$2.58/1,000 gallons
6"	228.80	\$2.58/1,000 gallons
8"	360.76	\$2.58/1,000 gallons
10"	541.11	\$2.58/1,000 gallons

All residential customers will be charged the fixed monthly charge associated with a three-quarter inch (.75") meter. (Amend Ord 06-093, 9/12/06)

(2) Residential customers' billable wastewater flows will be calculated by averaging the three lowest of the four months' billings of

metered water consumption for each December, January, February and March unless otherwise provided below. Each April, the billable flows for each residential customer will be adjusted according to the average of three of the four prior December, January, February and March billing months or for such periods as determined just and reasonable and adopted by resolution of the Arlington City Council. Any resolution regarding residential rates will be automatically adopted and incorporated in this Ordinance. Where no prior December, January, February and March billing is available to average for wastewater billing for an individual customer, the average consumption for all residential customers for those months will be used. If actual water consumption during any month is less than the average winter months' consumption, the wastewater flow billed will be equal to the actual metered water consumption for that month. (Amend Ord 06-027, 3/14/06)

(3) The charges set forth in Section 3.02B(1) and Section 3.02B(2) herein are based upon the amount of water used, as measured by a single meter, in increments of one thousand (1,000) gallons. Where water is furnished to residential customers by other than the City, the charge shall be equal to the current City residential charge for the average consumption for all residential customers for the prior December, January and February. Commercial customers in this classification shall be charged a flat rate to be determined in accordance with Section 4.07 of the "Industrial Waste and Pollution Control Chapter" of the Code of the City of Arlington, 1987, as amended. All customers connected to the sanitary sewage system who have a source of water supply that is in addition to or in lieu of the City of Arlington Water Supply, must have a meter approved and tested by the Arlington Water Utilities Department on that alternate source of water supply, and the wastewater charge as set forth in Section 3.02B shall be based on the sum of the volumes delivered by all sources of supply. (Amend Ord 90-96, 09/25/90)

**C. Water and Sewer Rates for Less than Full Billing Cycle:**

The above water and/or sewer rates shall apply to any customer with any consumption. For customers who have occupied the service address for less than a full billing cycle, the following policy will be in effect:

<b>DAYS OF OCCUPANCY</b>	<b>RATE</b>
15 days or less with no consumption	No charge

15 days or less with consumption	Regular rate
More than 15 days	Regular rate

**D. Construction Water Rates:**

(1) Construction water is water necessary for the construction of water, sewer, street and other projects including oil or gas exploration, development, production or drilling or water drawn from a hydrant for any purpose. All construction water will be measured by meters furnished by the Water Utilities department. A construction meter is any water meter used to connect to a hydrant or other water service connection for the purpose of metering construction water usage. The water utility account holder securing the meter will be responsible for meeting the terms and conditions of the construction water agreement, and for the meter, valve fittings and backflow prevention device. If a meter is connected to a hydrant, the water utility account holder will be responsible for the hydrant. The deposit plus a construction meter service charge shall be paid to the Water Utilities department. Any alteration or damage that occurs to the meter will be repaired by the City at the expense of the water utility account holder. The cost of the repairs will be deducted from the deposit and the remaining deposit, if any, will be credited to the final bill. Additional charges shall apply to meters that are lost or stolen.

(2) The contractor or person securing a meter may move a meter to various Arlington locations, but when meters are moved the contractor must notify the Water Utilities department. The meter readings shall be communicated to the Water Utilities Department between the 5th and 10th of each month, regardless of consumption. Failure to comply with this provision will result in the account being billed for the amount specified in the construction water agreement. Credit for this payment shall not be applied to current or subsequent billings. The account shall also be billed for actual meter readings, when obtained, based on the existing water rates.

(3) The Conservation Rates Construction Water Block Structure is the rate per month charged for construction water, which is the service furnished to customers using water:

- a. for any purpose of construction;
- b. drawn from a fire hydrant for any purpose; or

c. for gas or oil exploration, development, production or drilling.  
(Amend Ord 07-065, 9/18/07)

**E. Service Available Charge:** Construction water necessary for construction phases of residences with a service line one inch (1") or smaller may be received without a meter. To receive the service available charge feature, the tap and deposit must be paid at the Water Utilities Department prior to the issuance of a building permit. The service available charge will begin upon payment of tap, meter activation and deposit fees. The following consumption levels shall be used to calculate the service available charges. These charges will be calculated using rates in effect at the time of the billing.

(1) Six thousand (6,000) gallons per month for the first three (3) months.

(2) Fourteen thousand (14,000) gallons per month for the next two (2) months.

(3) Twenty-three thousand (23,000) gallons per month thereafter until such time as a meter has been set.

(4) In order for the meter to be set, adopted Water Utilities Office Policies must be met.

(5) The request for setting a meter should be made at least three (3) full working days prior to the date the meter is needed.

(6) A thirty (30) day calendar month will be used.

(7) When a service available account is established for less than a full billing cycle, the following charges shall be made:

0-15 days service - One-half ( $\frac{1}{2}$ ) Charge

16 days or more service - Full Charge

(8) The charge made to an account where a meter has been installed during a billing period will be for consumption used or the service available charge, whichever is larger.

(9) If a customer becomes delinquent in one (1) or more service available accounts, no additional service available accounts may be

opened or meters set until all such accounts are made current.  
(Amend Ord 05-079, 9/13/05)

Final inspection approval of any construction shall not be given until such time as all requirements of the adopted Water Utilities Office Policy have been met with regard to the tap, meter and box, and accepted by Building Inspections. Such approval can be withheld by the Building Inspector if compliance is found not to be complete.

**F. Raw Water Rates:**

The following rates per month shall be the rates charged for furnishing raw water to customers unless approved otherwise by the City Council:

<b>GALLONS OF WATER</b>	<b>RATE</b>
0 to 1,000 gallons	\$30.00 minimum charge
All over 1,000 gallons	\$ 0.87 per 1,000 gallons

Any required chemicals will be charged at actual cost at the City plus a ten percent (10%) handling fee. (Amend Ord 99-106, 08/31/99)

**G. Fire Protection System Fees:** A monthly fee equal to the fixed monthly charge for a one inch (1") meter shall be charged to customers with fire protection systems and/or fire lines. (Amend Ord 05-079, 9/13/05)

**H. Rate Adjustment Authority:** The Director of Utilities shall have the authority to adjust the monthly billing calculations/procedures for any customer to correct inequities that may arise due to methodologies adopted for calculating rates. (Amend Ord 89-110, 9/26/89)

**Section 3.03 Utility Accounts**

A. To open a utility account after the effective date of this ordinance, customers shall be required to apply for an account and pay a deposit to the City that conforms to the current policy of the Water Utilities Department.

B. A person making application shall include that person's spouse, if any, as an applicant on the application unless approved by the Director of Utilities. If unmarried or unrelated individuals or unrelated business entities who jointly own or occupy the property desire service, the Director of Utilities may require application to be made jointly in the names of those individuals or business entities. An applicant shall also furnish proper identification and shall correctly furnish any other relevant information, including but not limited to proof of ownership, lease or agency, required by the Water Utilities Department in order to properly provide the service. If information is false, misleading, fraudulent, incomplete or not furnished, the application may be denied and service, where provided, may be discontinued within ten (10) days from notice of discontinuance.

C. Where service has been discontinued, refused or posted for discontinuance at a property due to nonpayment of delinquent charges or a violation of this code, a new application for an account will not be accepted from another person to resume service in the same place under another name so long as the previous customer continues to occupy or own the property as their residence or place of business until:

- a. a new written application is fully completed;
- b. all delinquent charges are paid;
- c. arrangements for payment satisfactory to the Director of Utilities are made; and/or
- d. the violation is abated.

D. A new application for an account will not be accepted for property where service is furnished to a tenant and the property is transferred to a person with notice of discontinuance for the purpose of avoiding payment of charges or avoiding enforcement of this section until:

- a. a new written application is fully completed;
- b. all delinquent charges are paid;
- c. arrangements for payment satisfactory to the Director of Utilities are made; and/or

d. the violation is abated.

E. A person who occupies property 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 property.

F. The customer of record has the primary liability for service under this chapter. Nevertheless, if service is provided to property owned or leased by a person or entity jointly with the customer of record, or if the customer of record is an agent or property manager for one or more owners of property, the joint owners shall not be treated as new customers, but shall remain jointly and severally liable with the customer or customers of record for unpaid delinquent charges. The Director of Utilities may refuse or discontinue service as described in Section 3.01 of this chapter.

G. Spouses receiving service at a property that they occupy are deemed to be joint customers of record, notwithstanding that only one spouse may have applied and shall be jointly and severally liable for unpaid delinquent charges. The Director of Utilities may refuse or discontinue service as described in Section 3.01 of this chapter.

H. Service may be refused or discontinued if a person fails to:

a. make a required deposit; or

b. increase the amount of the deposit after being notified that an increase is required.

I. Bills may be paid by Discover, Mastercard, Visa debit/credit cards, cash, check or money order. The Water Utilities Department reserves the right to refuse payment by personal or business check if they have reason to believe the check will not be honored at the customer's bank.

J. The City is authorized, in accordance with the provisions of Section 402.0025 of the Texas Local Government Code, as amended, to perfect a lien upon property for delinquent charges unless it is a homestead as protected by the Texas Constitution. This section shall not apply to delinquent charges for service connected in a tenant's name after notice by the property owner to the Director of Utilities that the property is rental property. This section shall also not apply to bills for service connected in a tenant's name prior to the effective date of this ordinance. The Director of Utilities 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 or disputed. The notice must be sent to: the customer in whose name the account for service to the property exists and the last known record owner of the property according to the tax rolls of the city, if the customer is not the owner. Absence of receipt of notice does not affect the enforceability of a lien perfected under this section. The lien for delinquent charges shall be perfected by recording in the real property records of the county where the property is located a notice of lien containing a legal description of the property and the utility's account number for the delinquent charges. The lien may include penalties, interest and collection costs. The lien is superior to all other liens except a bona fide mortgage lien recorded prior to the recording of the city's lien in the deed or lien records of the county in which the property is located. Should additional delinquent charges be incurred subsequent to the date of the original lien's execution, a correction lien may be executed and filed to fix 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. The City Attorney, at the request of the Director of Utilities 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. The imposition of a lien by the city is cumulative of any other remedies, methods of collection or security available to the Director of Utilities or the city under the charter and ordinances of the city or under state law. This section does not affect the authority to refuse or to furnish service when delinquent charges exist.

**K. Tap and Meter Fees:**

(1) A charge shall be made by the Water Utilities Department 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. A fee shall be charged according to the schedule as established by resolution of the City Council, as set forth in the adopted Water Utilities Office Policies for taps and for furnishing and installing meters and boxes.

If a branch is requested with the tap installation, a charge for each branch will be made in addition to the tap and meter activation charges. A meter activation charge shall be made for each and every branch.

Where the water tap has been installed according to Standard Specifications for Waterworks and Sewerage Improvement in the City of Arlington, Texas by an approved water and sewer contractor, only a meter activation fee will be charged for furnishing the box and meter, and for installing the meter. Such activation fees are payable in advance, such fees being those as established by resolution of the City Council and set forth in the adopted Water Utilities Office Policies.

For branches on taps larger than two inches (2"), the actual cost of furnishing and installing the tap and meter shall be charged. This cost includes all labor, materials and equipment necessary to make the tap, run the service line and set the meter and box.

(2) The Water Utilities Department shall charge for the relocation of an existing water tap. Any relocation greater than twenty feet (20') from the present location shall be deemed a new tap, and the charge shall be according to the schedule for new taps. The water tap should only be moved to a location within the street right-of-way or utility easement. Current charges for tap relocation are those charges as established by resolution of the City Council and set forth in the adopted Water Utilities Office Policies. The Water Utilities Department shall charge for the termination of obsolete taps, if requested by a contractor or property owner, or if necessary due to the construction activity of said contractor or property owner. The charge shall include all labor, materials and equipment necessary to properly complete the work.

The Water Utilities Department reserves the right to require the customer to have the existing water tap relocated or capped by an approved water and sewer contractor. Where the tap and meter is existing and a customer desires a larger tap and meter, a credit shall apply as stated in the adopted Water Utilities Office Policies, as long as the new tap is to be made at the same location.

(3) Fire hydrant water meters shall be provided under contract. Charges shall be those as established by resolution of the City Council and set forth in the adopted Water Utilities Office Policies.

(4) A sewer activation fee shall be charged by the Water Utilities Department prior to any sewer tap being made. An activation fee shall apply to each tap of the main or for each water account having been established at the property site, whichever calculation produces the greater number. Current activation fee amounts shall be those

amounts as established by resolution of the City Council and set forth in the adopted Water Utilities Office Policies.

On sewer services five inches (5") and larger in size, an approved manhole shall be installed at the City sewer main over the sewer service by the customer, unless a wye has been installed at the time the main was laid. It shall be the responsibility of the property owner to maintain the sewer service from the sewer main to and on their property, including the connection to the sewer main.

L. The water and sewer tap fee and sewer activation fee shall be paid at the same time unless otherwise approved by the Water Utilities Office Manager.

M. Prior to the commencement of construction activity, a water meter must be ordered and installed at the tap to be utilized for construction water. The only exception shall be for the customer who has completed the establishment of a service available account for residential construction as stated in Section 3.02(E). (Amend Ord 05-079, 9/13/05)

### **Section 3.04 Service Outside Corporate Limits**

A. Sewer Rates: The rates charged by the City for sewer service outside the corporate limits of the City shall be as determined by the City Council.

### **Section 3.05 Stormwater Utility Charges**

A. There shall be a charge on each monthly utility statement for the Municipal Drainage Utility System. The Director of Utilities is authorized to collect such charges in a manner consistent with the "Water and Sewer" Chapter, the City Charter and State law. The drainage fee will be a separate line item on the utility statement and shall be clearly identified as a separate charge.

B. The following rates per month are hereby established:

(1) **Residential Accounts**

Each separately metered residential account	\$1.30 per
account	

Apartment, duplex and other multi-family residential unit structures with residential units which are not separately metered \$ .65 per

(2) **Nonresidential Accounts**

The rates shall be calculated according to the total square footage of impervious area per nonresidential property and apportioned among the account holders owning, using or occupying such property; if there are no water accounts for such property, the rate will be apportioned among the owners.

<b>Impervious Area (in square feet)</b>	<b>Effective October 1, 1994</b>
0 - 10,000	6.50
10,001 - 50,000	13.00
50,001 - 100,000	19.50
100,001 - 200,000	39.00
200,001 - 350,000	78.00
350,001 - 700,000	130.00
700,001 - 1,000,000	260.00
Over 1,000,000	390.00

C. Except as otherwise provided by this section, billing, charges and collection procedures shall be consistent with that of the water and sewer services.

D. Drainage charges shall be identified separately on the utility billing. Billing shall be consistent with V.T.C.A., Local Government Code, Section 402.048.

E. Delinquent charges shall be collected in a manner consistent with V.T.C.A., Local Government Code, Section 402.050.

F. The City may grant exemptions from the drainage charge, pursuant to V.T.C.A., Local Government Code, Section 402.053. (Amend Ord 94-53, 03/08/94)

## **ARTICLE IV REGULATIONS AND RESTRICTIONS ON SERVICE**

### **Section 4.01 Responsibility for Leakage**

All property owners, their agents and tenants, shall be held responsible as customers for loss of water due to leakage in pipe or plumbing on the discharge side of the meter or on said property, and if lost water is not paid for when due according to the rates provided herein, the water service shall be cut off by the Water Utilities Department and not turned on again until all claims are paid. In the event of any change in tenancy in rental property where there exists, at such time, leakage, such condition shall be corrected to the satisfaction of the Water Utilities Office before service will be restored.

### **Section 4.02 Opening Curb-Stop**

No plumber or any other person shall open the street curb stop after same has been closed by the Water Utilities Department without a written permit first being obtained from the Water Utilities Department.

### **Section 4.03 Extension of Water Service Prohibited**

After water is introduced into a building or upon any premises, the same shall not be extended by any plumber or any other person to any other fixtures or premises.

### **Section 4.04 Separate Service Pipe for Each House**

Two houses shall not be permitted to be supplied with one service pipe where there is a water main in front of the premises, but shall have separate service pipes, unless approved otherwise by the Director of Utilities.

### **Section 4.05 Unmetered Sprinkler Systems**

Every person taking water from the Water Utilities Department through a sprinkler system for the purpose of fire protection which is not metered shall at all reasonable times permit the Director of Utilities and/or his agents to enter the premises and building for examination of pipes and fixtures to assure that the system is maintained only for fire protection, and refusal by any customer shall result in

refusal of water supply from the Water Utilities Department until such permission is granted.

A monthly service charge as outlined in Section 3.02(G) hereof, shall be applied for the reading and maintenance of these sprinkler systems.

**Section 4.06     Repair, Relocation, and Renewal of Service Pipes**

The Water Utilities Department reserves the right to make all repairs, relocations, and renewals of service pipes from main to meter, and it shall be unlawful for any other person or persons to repair, relocate, or renew service pipes from main to meter without first obtaining the written consent of the Water Utilities Department.

**Section 4.07     Repair of Sanitary Sewer Lines**

The property owner shall be responsible for maintaining the sanitary sewer service line located on his or her property and located within the street right-of-way or easement up to, and including, the point of connection to the main. This shall include the cleaning, unclogging and/or unstopping of the line due to materials, debris, roots, trash or other items becoming lodged in the line. Where continual problems occur due to the structural failure of the line within the street right-of-way or easement, the City will repair this portion of the service line at the cost set forth by resolution for such repair to the property owner.

The property owner shall be responsible for maintaining and repairing the private service lines outside of street right-of-way or a public easement on private property. Lines within a service line easement will also be the responsibility of the property owner being served by the line for maintenance and repair. (Amend Ord 87-192, 12/15/87)

**Section 4.08     Connections for Multi-Units**

All buildings used as duplexes, condominiums, townhouses, shopping malls, apartment houses, etc., shall be required to provide a separate connection and meter with the main for each apartment, etc., if each tenant is responsible for their own water account. Upon non-compliance with this provision, the Water Utilities Department shall cut off the supply for the entire building or any portion thereof deemed

proper. If the entire water service to the apartment house, etc. is to be paid by the owner, or owners, or agent thereof, or landlord, then only one meter and connection to the main shall be required.

#### **Section 4.09 Copper Service Pipes**

All service pipes hereafter laid shall be of copper unless other material shall be authorized by the Director of Utilities.

#### **Section 4.10 Interruption of Service by the Water Utilities Department**

The Water Utilities Department shall have the right to temporarily discontinue, disconnect, and re-connect water supply without notice to all customers for the purposes of making repairs, connections, extensions, and cleaning of mains, machinery, reservoirs or any part of said water system. The Water Utilities Department shall have the right to temporarily disconnect service to a customer having a break on their private line should that break present a hazard to the general public. None of the terms of this chapter shall ever be construed as requiring the Water Utilities Department to maintain a specified constant pressure in its lines.

#### **Section 4.11 Use of Fire Hydrants**

It shall be unlawful for any person, except a member of the Fire Department or an employee of the Water Utilities Department, to open or use water from a fire hydrant, or to take off the cap without permission from the Water Utilities Department, except for the use of construction water with a City of Arlington issued construction meter attached to the fire hydrant. Fire hydrant operation for construction meters will be in accordance with the Water Utilities Department Water Meter Agreement. The contractor will be responsible for any damage to the water system (mains, valves, hydrants, etc.)

#### **Section 4.12 Tapping of Street Mains; Violations**

It shall be unlawful for any plumber or person, other than a contractor employed by the Water Utilities Department, to tap any street main, make connections with any street mains or extend service pipes from mains to the meter or to place a curb stop and meter box at that point. All of such equipment shall be under the exclusive control of the Water Utilities Department, and said tap and service shall be paid for by the person ordering the work done before work is

commenced, according to schedule of prices shown in the adopted Water Utilities Office Policies.

**Section 4.13 Defacing Property of Water Department; Violations**

It shall be unlawful for any person to in any manner deface the facilities, walls, machinery or fixtures connected with or pertaining to the Water Utilities Department.

**Section 4.14 Malicious Interference with Water Service; Violations**

It shall be unlawful for any person, individually or in association with others, to willfully break, injure or tamper with any part of the Water Utilities Department for any purpose whatsoever, or in any other manner to maliciously interfere with or prevent the running and operating of such system and the water supply and sewage collection therein.

**Section 4.15 Diversion of Water from Metered Flow; Violations; Prima Facie Case**

Whoever by any means or device prevents water from passing through any meter belonging to the Water Utilities Department, or prevents any meter used in connection with the supply of water to any customer by said Water Utilities Department from registering the amount of water passing through such meter, or prevents a meter from duly registering the quantity of water supplied or in any way interferes with its proper action or just registration, or, without the consent in writing of the Director of Utilities, diverts the water from any pipe or pipes of the Water Utilities Department, or otherwise uses, or cause to be used, without the consent of the Director of Utilities, any water produced or distributed by said Water Utilities Department, or retains possession of, or refuses to deliver, any meter or other appliance loaned to him by the Water Utilities Department for the purpose of furnishing water through same, shall be in violation of these rules and regulations and shall be guilty of a misdemeanor. The presence at any time on or about any such meter or pipe of any device or pipes resulting in the diversion of water or prevention of its free passage and registration by the meter, or resulting in the diversion from the meter as above defined, or resulting in the prevention of water reaching the meter, or resulting in the prevention of the just registration of the meter or meters or the taking of any water except

through a meter as above set forth, shall constitute prima facie evidence on the part of the person owning or having custody and control of the room, building, place or premises where such device or pipe is, or knowledge of the existence thereof and knowledge of such existence to the person who would be benefited by the failure of the water to be properly metered, and shall further constitute prima facie evidence of intention on the part of such person or persons to defraud, and shall bring such person prima facie within the scope, meaning and penalties of this section and Ordinance.

**Section 4.16 Water Used in Construction Without Appropriate Application for Service Being Made**

Where water is used in the construction or repair of property without having been authorized or turned on by the Water Utilities Department, the Department may charge the property owner for costs, including charging for water. The Water Utilities Department shall have the right to estimate the amount of water used, and shall take action to prevent further unauthorized usage until such time as all appropriate applications for service have been made and charges are paid. Nothing in this Section shall be considered to limit prosecution of offenders for violations of City or State law.

**Section 4.17 Repairing Meters & Meter Boxes; Testing Meters, Fee**

A. All water meters and meter boxes furnished by the Water Utilities Department shall remain at all times the property of the City, and shall be maintained and repaired, when rendered unserviceable through reasonable wear and tear, and renewed by the Water Utilities Department. 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 expense caused to the Water Utilities Department thereby shall be charged against and collected from the owner of the premises, and if not paid, services shall be disconnected.

B. When any customer of water is of the opinion that the meter through which the water is supplied is incorrect for any reason, they may make application to the Water Utilities Customer Service Division to have the meter examined and tested. If it is determined by testing that the meter is operating properly, the customer shall be charged for the test in accordance with the schedule included as a part of the adopted Water Office Policies. Standard in-shop testing fees shall

apply for meters up to two inches (2"). The fee for all larger meters shall be based upon the actual cost of work. If any meter one inch (1") or smaller shall, upon examination and test, be found to register over two per cent more water than actually passed through it, based on a series of tests over the range of flow recommended by its manufacturer, another meter will be substituted and the fee charged in the application for such test will be credited to the person making the application and the account adjusted, not exceeding three months back. If any meter one inch (1") or larger is, upon examination and test, found to register over three percent more water than actually passed through it, the same adjustment shall apply. (Amend Ord 97-156, 12/09/97)

#### **Section 4.18 Installation of Check Valve or Back Siphonage Prevention Devices**

If, in the judgment of the Director of Utilities, an approved check valve or backflow and back siphonage prevention device is necessary for the safety of the water system, the Director will give notice in writing to the customer to install such an approved device immediately. The customer will install such approved device at his own expense, and failure, refusal, or inability on the part of the customer to immediately install such device shall constitute a ground for discontinuing water service to the premises until such device has been installed.

#### **Section 4.19 Liability for Interrupted Service**

All persons having devices such as, but not limited to, boilers or air conditioning equipment which utilize, employ, or make use of water in any manner whatsoever, which may become damaged due to interruption of water service, and which are supplied directly with City water, do so at their own risk. The City shall not be liable for any damage that may occur as a result of the water being cut off for any purpose, or as a result of the breaking of any pipe or fixture by pressure of the water from the City mains.

#### **Section 4.20 Exposing Meter or Fire Hydrants to Damage: Moving Meters or Hydrants; Violations**

It shall be unlawful to build driveways, etc., in such manner as to expose any meter or fire hydrant to damage from traffic. Meter boxes shall not be set in a driveway or sidewalk nor any closer than two feet (2') from any street or driveway. Whenever the property owner

requests the moving of any meter or fire hydrant, such cost shall be at the expense of the property owner. Upon deposit of the estimated cost of moving the meter or hydrant, the Water Utilities Department shall proceed to make the desired location change. (Amend Ord 97-156, 12/09/97)

**Section 4.21 Vending Water; Violations**

It shall be unlawful for any person to sell or resell water for domestic or any other uses within or without the City without receiving a permit to do so from the Director of Utilities.

**Section 4.22 Compulsory Connection; Nuisance**

A. The use of any premises in the City in such a manner as to create sewage thereon not discharged into the sewerage system of the City is hereby declared to be a nuisance. Every water closet or privy connected and used in any building, not connected with the sewerage system, is hereby declared to be a nuisance. The City shall not provide water services to an owner or occupant within the corporate municipal limits of the City of Arlington except as provided in Section 4.22(C). This Section shall be inapplicable to premises where connection with the City sewerage system is not feasible. Such connection with the City sewerage system is hereby declared to be feasible as to any premises abutting any street, alley, or other public way or sewer right-of-way in which any line of the sewerage system of the City sufficient to handle the same exists.

The City shall provide gravity sewer systems so that residences can be served when constructed at the building lines. Where residences are constructed below street level or with basements requiring sewer service and/or constructed on low lots beyond the building line causing the need for a lift station, such lift station and necessary force main will be the individual responsibility of the property owner. This shall include initial installation costs as well as operation and maintenance costs.

B. It shall be the duty of any persons owning or occupying improved property within the City which can be feasibly connected to the City sewerage system as hereinabove set out, to also connect such property and the improvements thereon with the City water services if the same exist in the street, alley, or other public way or water right-of-way abutting the premises.

C. Where City sewerage services are not available in the abutting streets, alleys, other public ways, or other utility rights-of-way, but subsequently are laid therein, the City may provide water services to an owner or occupant within the corporate municipal limits of the City of Arlington for one year from the time the sewerage services are subsequently laid. It shall be the duty of the owner or occupant of such property within one year after the sewerage service becomes available, to connect therewith. Such connections shall be made subject to the applicable charges provided by the current ordinances or resolutions of the City.

D. It shall be the duty of the Director of Utilities to send notice to the owner or occupant of every building situated where there has been laid a sanitary sewer and where there is sufficient water service from the City's waterworks that the owner or occupant must:

1. make closet connections with the City's sanitary sewer within sixty (60) days after receipt of such notice from the Director of Utilities;
2. any such owner or occupant of any building so situated, who shall fail to make at least one water closet connection with the City's sanitary sewer within sixty (60) days after receipt of such notice from the Director of Utilities or who shall fail to have such water closets suitably arranged for the use of a urinal, unless separate urinal is provided, shall be deemed guilty of a misdemeanor; and
3. any such owner or occupant of any building so situated, who shall fail to make at least one water closet connection with the City's sanitary sewer within sixty (60) days after receipt of such notice from the Director of Utilities or who shall fail to have such water closets suitably arranged for the use of a urinal, unless separate urinal is provided, shall have water service discontinued without further notice sixty (60) days after the date of receipt of such notice from the Director of Utilities unless a written request for administrative review of discontinuance of service is submitted to the Director of Utilities within sixty (60) days from the date of the notice.

Service is deemed to be available where it is adjacent to the subject property in street right-of-ways or easements.

E. When the Director of Utilities finds that any person or entity is or has knowingly or unknowingly allowing/ allowed an actual or threatened discharge or leak which may result in an imminent danger

or threat to the environment or to the health or welfare of persons, the POTW, Storm Sewer or Waters of the State, the Director of Utilities may discontinue water service and/or sanitary sewer service access until the Director of Utilities determines that such threat or danger is eliminated and/or such appropriate prevent action is taken to prevent reoccurrence. Any type of leak or discharge that may contaminate the water system including but not limited to any used motor oil, antifreeze, hydraulic fluid, or other motor vehicle fluid; any industrial waste; any hazardous waste including household hazardous waste; any garbage, domestic sewage or septic tank waste, cooking oil, grease trap waste, or grit trap waste; any trash rubbish, yard waste, or other floatable material; any waste water, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, industrial waste, municipal waste, and agricultural waste. The Director of Utilities shall send prior notice of discontinuance unless the Director of Utilities determines that immediate discontinuance is necessary to prevent an imminent danger or threat. If there is not an imminent danger or threat, the Director of Utilities shall provide ten (10) days notice before discontinuance. If the Director of Utilities determines that immediate discontinuance is necessary, notice of discontinuance should be sent within three (3) days after discontinuance. Notice must provide the date that service will be or was discontinued without further notice, the reason for discontinuance, and the ability to request an administrative review regarding the reasons for discontinuance within fifteen days from the date of notice. Services are not restored upon request for an administrative review unless the Director of Utilities determines that such threat or danger is eliminated and/or such appropriate prevent action is taken to prevent reoccurrence. (Amend Ord 05-079, 9/13/05)

#### **Section 4.23 Water Furnished to Department of City**

All water furnished to the various departments of the City shall be paid for by such departments out of appropriations made by the City Council for their respective operations.

#### **Section 4.24 Sprinkler or Fire Service**

A. No connection for a sprinkler or fire service shall be permitted unless application therefor has been made and granted by the Water Utilities Department and approved by the Building Official of the City. In no instance shall any connection be made with any sprinkler or fire service without the written consent of the Water Utilities Department.

Should it be found that any unauthorized connection has been made, or that any water has been used from a sprinkler or fire service for any other purposes than extinguishing a fire, or that a waste of water is permitted from such connection through leaks in the pipes or fixtures, the water service shall be shut off and not turned on until a meter of the kind and size prescribed by the Director of Utilities shall have been furnished and installed at the expense of the customer.

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

#### **Section 4.25    Submetering**

It shall be unlawful for any person, firm, or corporation to construct, occupy, or allow to be occupied any structure in which the construction plan or plans provide individual metering of the water consumption of one or more owners or tenants, unless said plan or plans have been approved by the Director of Utilities or unless otherwise governed by State law. The Director may require for his approval appropriate contracts with the City for meter reading and access thereto, and clarifying responsibilities between the City of Arlington and the owner. Standard specifications applicable to regular meter sets shall apply to submetering. The Director of Utilities is authorized to include detailed restrictions and procedures on submetering as part of the adopted Water Office Policies.

#### **Section 4.26    Requests for Service**

Upon request of the owner of a given lot or tract of land, the City may extend water or sanitary sewer mains and necessary appurtenances to said lot or tract of land, provided that the City Council approves said request for service by resolution.

In no event shall the City be obligated to proceed under the terms of this Article if funds are not available, or if in the determination of the City, the extensions may not be practicable. (Amend Ord 90-55, 05/22/90)

#### **Section 4.27    Lawn and Landscape Irrigation Conservation**

A. Except for hand watering and the use of soaker hoses, it shall be unlawful for any person to irrigate, water, or cause or permit the

irrigation or watering of any lawn or landscape located on premises owned, leased, or managed by that person between the hours of 10:00 a.m. and 6:00 p.m.

B. It is an affirmative defense to prosecution that the irrigation or watering of any lawn or landscape during the prohibited time was done for the purpose of establishing hydromulch, grass sod, grass seed; dust control for sport fields; or for the maintenance, repair, or testing of an irrigation system.

C. Irrigation System Rain and Freeze Sensors.

1. Any irrigation system installed within the City on or after January 1, 2007, must be equipped with rain and freeze sensors in number and type established and published by the Director of Utilities.

2. Any irrigation system installed before January 1, 2007, may not be operated after March 4, 2007 without being equipped with rain and freeze sensors in number and type established and published by the Director of Utilities. This requirement does not apply to a single family residential or duplex property, or an individually metered townhome or condominium unit.

3. It shall be unlawful for any person to knowingly or recklessly commit any of the following on premises owned, leased, or managed by that person:

a. install, or cause or permit the installation of, an irrigation system in violation of Subsection (C)(1);

b. operate, or cause or permit the operation of, an irrigation system that does not comply with Subsection (C)(1); or

c. operate, or cause or permit the operation of, an irrigation system that does not comply with Subsection (C)(2). (Amend Ord 06-109, 11/28/06)

## **ARTICLE V WATER RATIONING**

### **Section 5.01 Uses Prohibited**

It shall be unlawful for any person, firm, or corporation during any water emergency period, as hereinafter defined, to use municipally-

supplied water for the purpose of watering lawns, shrubs, and flowers or any other use specified by the City Manager or his designee within the corporate limits of the City.

### **Section 5.02 Declaration of Emergency Periods**

The City Manager or his designee may declare a water emergency period when, in his opinion, the municipal water supply of the City is insufficient to protect the health, safety, and public welfare of the citizens of the City. In such declaration the watering of lawns, shrubs, and flowers, etc., may be conditionally permitted at the discretion of the City Manager or his designee making such declaration.

### **Section 5.03 Enforcement of Drought Contingency Plan and Water Conservation Plan**

On April 26, 2005, the City Council approved Resolutions 05-174 and 05-175 adopting a water conservation plan and a drought contingency plan. The requirement and enforcement of each plan as specified in Resolution 05-174 and Resolution 05-175 are hereby adopted by ordinance and incorporated by reference herein. Any amendments to the drought contingency plan and/or to the water conservation plan that are approved by resolution are automatically adopted by ordinance and incorporated by reference herein.

The drought contingency plan approved through Resolution 05-175 or as amended is available in the City Secretary's Office and is incorporated by reference herein. No person shall knowingly or intentionally allow the use of water from the City of Arlington for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of the drought contingency plan, or an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the Director of Utilities, in accordance with the provisions of the drought contingency plan. Any person who violates the drought contingency plan is guilty of a class "C" misdemeanor. Each day that one or more of the provisions in the drought contingency plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of the drought contingency plan, the Director of Utilities shall, upon due notice to the customer, be authorized to discontinue water service to the premises where the violations occurred. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, and any other costs incurred by the City of Arlington in discontinuing

service. In addition, suitable assurance must be given to the Director of Utilities that the same action will not be repeated while the drought contingency plan is in effect. Compliance with the drought contingency plan may also be sought through injunctive relief in the district court. (Amend Ord 06-027, 3/14/06)

## **ARTICLE VI PRIVATELY OWNED WELLS**

### **Section 6.01 Notification to Dig or Drill Well:**

Any person, firm, or corporation proposing to dig, bore, or drill a well within the corporate limits of the City, shall, before doing so, notify the Director of Utilities of said City.

### **Section 6.02 Form of Notification:**

Such notification shall be in writing, and shall set forth the purpose or purposes for drilling such well, and shall state the proposed depth to which same is to be dug or drilled, and shall be presented to the Director of Utilities of said City.

### **Section 6.03 Specifications for Wells:**

Any person, firm, or corporation which digs, bores, or drills a well will prepare and keep a complete log of such well from day-to-day, showing all the different sands, clays, and sources of water, whether fresh or mineral, and shall make available such records for inspection by the City at all times it may desire. In accordance with State law, any person, firm, or corporation which digs, bores, or drills a well shall use a well driller that has been registered with and licensed by the State of Texas.

### **Section 6.04 State Notification:**

Any person, firm, or corporation which proposes to dig, bore, or drill a well for the purpose of establishing a "Public Water System" or a "Community Water System" in addition to notifying the City, shall also notify the Texas Department of Health, and shall be subject to the Texas Department of Health, Water Hygiene Division, Rules and Regulations for Public Water Systems.

### **Section 6.05 Connection to City Water System:**

No well supply shall be directly or indirectly connected to the City's water supply system without review by, and written approval of, the Director of Utilities.

## **ARTICLE VII FRONT FOOTAGE CHARGES FOR SERVICE CONNECTIONS**

### **Section 7.01 Front Footage Charges for Service Connections**

A. The front footage charge shall be paid for all water service connections made from and after the effective date hereof to all water mains, constructed, purchased or financed by the City, including offsite and/or oversized water mains for which the owner is being reimbursed as provided for in Section 9.03 hereof. No front footage charge shall be paid for connections to mains for which the City has previously received payment.

B. A front footage charge shall be paid for all sanitary sewer connections made from and after the effective date hereof to sanitary sewer lines constructed, purchased or financed by the City, including offsite and/or oversized sanitary sewer mains for which the developer is being reimbursed as provided for in Section 9.03 hereof. No front footage charge shall be paid for connections to mains for which the City has previously received payment. (Amend Ord 04-001, 1/6/04)

C. The following definition shall be used in interpreting this section:

1. Front Footage. The number of linear feet in that portion of the property boundary of a lot or tract of land which abuts a street, alley or easement containing sanitary sewer and/or water lines for which front footage charges are collected for connection. In the case of an easement containing a sanitary sewer for which front footage charges are collected for connection, which sewer crosses through the property served, the "boundary" upon which the front footage charges are to be based shall be the length of such sewer within the limits of such property measured along the center line of such sewer.

D. Front footage charges shall be calculated and determined as follows:

1. The front footage charge applicable to property platted into the usual rectangular lots or tracts of land shall be based on the front footage of such property as defined in Subsection (C)(1) above, except that the maximum front footage to be used in determining a charge to

be made for the connection of a single family residence shall be two hundred feet (200'). On tracts being developed other than for a single family residence, front footage charges will be due on all abutting lines. No service shall be provided within a development until the front footage charges for that subdivision or development have been paid.

2. On single family residential property which is rectangular shaped and has more than one (1) boundary abutting a street containing a sanitary sewer or water line serving the property, only the shortest of such boundaries abutting a street will be used in determining front footage charges.

3. Where one (1) single family residence is located on an unsubdivided tract with a front footage greater than two hundred feet (200'), the owner of such tract shall be charged for a front footage of two hundred feet (200') with the provision that if the property is later subdivided into lots, each lot or residence requiring additional connection to a sanitary sewer or water line will be charged for front footage in the usual manner. For property being subdivided or having a nonresidential use, property will be charged on the basis of actual front footage along existing lines.

E. The amount of the front footage charge to be made for each service connection to a water main, under this section, shall be the rate in effect by resolution of the City Council at the time payment for the front footage charges is made.

F. The amount of the front footage charge to be made for each service connection to a sanitary sewer main, under this section, shall be the rate in effect by resolution of the City Council at the time payment for the front footage charges is made.

G. The applicable front footage charges required hereunder for water or sanitary sewer service connections shall be paid before the building permit can be issued and/or before construction can begin on the water and/or sanitary sewer improvements to serve the development.

## **Section 7.02 Water and Sewer Improvements by Assessment**

In lieu of the above procedures, the City Council may consider and determine the necessity for the extension and construction of water and/or sewer main improvements by providing for the payment of a

part of the cost of such improvements by assessments to be made against the benefited property and the owners thereof under the terms and provisions of Chapter 402, V.T.C.A., Local Government Code, as amended, and as may hereafter be amended.

(Amend Ord 90-55, 05/22/90)

## **ARTICLE VIII STANDARD SPECIFICATIONS FOR WATERWORKS AND SEWERAGE IMPROVEMENTS**

### **Section 8.01    Standard Specifications Adopted**

The "Standard Specifications for Waterworks and Sewerage Improvements", as amended, or Standard Specifications, are hereby adopted as the specifications by which all waterworks and sewerage improvements within the corporate limits of the City shall be made, except as provided for in Section 8.03 of this ordinance. A copy of such Standard Specifications shall be kept on file in the office of the City Secretary.

### **Section 8.02    Specifications to be Incorporated in Contracts**

The "Standard Specifications", as amended, shall be expressly incorporated in all contracts for waterworks and sewerage improvements and provision shall be made for construction in accordance therewith. In the event the Standard Specifications are not expressly incorporated in any such contract, then the Standard Specifications shall be and are hereby deemed to be included in such contract by operation of law, and improvements shall be made in accordance with the Standard Specifications.

### **Section 8.03    Exceptions**

The Director of Utilities is authorized to alter, amend, add to, or waive all or any part of said specification with regard to specific waterworks and sewerage improvements when, in the opinion of the Director of Utilities, such would be in keeping with sound engineering practice and would inure to the interest and welfare of the citizens of the City. (Amend Ord 97-156, 12/09/97)

## **ARTICLE IX RULES AND REGULATIONS FOR PROVIDING WATER AND SEWER SERVICE**

## **Section 9.01 Basic Policy**

- A. Subdivisions within the City of Arlington and its extraterritorial jurisdiction shall be provided with an approved water supply and distribution system and with an approved sewage collection and disposal system. An adequate water supply and distribution system and sanitary sewer system, consistent with the Master Plan for Water and Sanitary Sewer, shall be a condition of plat approval.
- B. Extension of water and sanitary sewer lines to serve newly subdivided or platted land shall be authorized by the City only upon determination that all facilities necessary to serve the development are adequate. All extensions of water and sanitary sewer lines must be approved by the City. If alternatives exist as to these extensions, the City shall have the authority to determine the most appropriate alternative. The City shall retain the authority to reject any extension not deemed to be in the best interest of the City.
- C. Sanitary sewer mains shall be a minimum of six inch (6") lines or larger, as determined by the City, in order to serve the property being developed. The City may require oversizing in order to serve the remainder of the drainage basin beyond the property being served. Water mains shall be a minimum of six inch (6") lines for residential development and a minimum of eight inch (8") lines or larger for all other development, as determined by the City, or as required to serve the development. In addition, the water mains shall be sized in accordance with the City's latest Water Distribution Analysis and to form a grid of twelve inch (12") lines at a maximum one half ( $\frac{1}{2}$ ) mile spacing with eight inch (8") lines looped at maximum one quarter ( $\frac{1}{4}$ ) mile intervals within the distribution system, unless fire flow or domestic services, require larger lines. The engineer for the owner shall be initially responsible for determining this demand, subject to approval by the City. All water and sanitary sewer mains shall be extended through the development or across the frontage of the property along streets, alleys or in easements to the tract or addition line in order to provide service to adjacent property where applicable. The City may require all onsite sewage flows generated by any development or part thereof to be delivered to a single location for off-site disposal.
- D. The subdivider and/or property owner shall install all water and sanitary sewer facilities needed to serve the development and shall extend all water and sanitary sewer mains and appurtenances necessary to connect the development with the City's water supply

and distribution system and with the City's sanitary sewer system, subject to City participation in oversize costs and subject to reimbursement from proceeds of the water and/or sanitary sewer main fees established for such purpose, consistent with the provisions of Article VII of the Subdivision Rules and Regulations and the "Water" Chapter as amended.

E. Location of all water and sanitary sewer lines and appurtenances thereto necessary to serve platted land shall be in accordance with the City's Master Plan for water and sanitary sewer facilities.

F. Construction of all water and sanitary sewer facilities required by these regulations shall be in accordance with the requirements and specifications contained in the City Standard Specifications for Waterworks and Sewerage Improvements, as amended, the City Guide for Design Policies and Procedures for Water and Sanitary Sewer Utilities Systems, latest revision, and the regulations of the Texas Natural Resource Conservation Commission (TNRCC), National Sanitation Foundation (NSF), Texas Department of Insurance, Insurance Services Office and the City's current adopted Uniform Fire Code, which are incorporated herein by reference and made a part hereof.

### **Section 9.02     Extension of Water and Sanitary Sewer Mains**

Where extensions of water and sanitary sewer systems authorized by these regulations are required to serve property which is to be subdivided or platted for development, the owner shall extend, or cause to be extended, water and sanitary sewer facilities to and through such properties on the following basis and in accordance with minimum standards and procedures described below:

A. Concurrent with the submission of a preliminary plat, plat revision or plat showing, owner(s) of the tract or subdivision shall submit to the Director of Utilities, for approval, a map or plat showing the location of water and sanitary sewer mains which will be required to ensure adequate service and fire protection to the lots specified in such proposed plat.

B. At the request of the Director of Utilities and prior to the filing of record with Tarrant County, owner(s) of the land being platted shall submit to the Director of Utilities a layout showing the proposed location of water meters to ensure adequate access is available for meter reading and maintenance.

### **Section 9.03    City-Owner Agreement Required**

Prior to extension of any water main or sanitary sewer main, or any construction of such facility or appurtenances thereto, the subdivider and/or property owner shall execute an agreement with the City on a form prepared or approved by the City Attorney which clearly defines the scope and details of the proposed extension and which contains the subdivider's and/or property owner's agreement to abide by all regulations of the City and to deliver to the City clear and unencumbered title to all the proposed improvements at the time of initial acceptance by the City, which shall be prior to commencing public water and/or sanitary sewer construction. The agreement shall provide for security in a form approved by the City Attorney.

### **Section 9.04    City Participation and Reimbursement**

A.    City Participation in Oversize Costs. The City may participate in the costs of oversizing water and/or sanitary sewer mains and appurtenances thereto which exceed the size of a standard sized water or sanitary sewer main, or which exceed the minimum sized facility necessary to serve the development, whichever is greater. The subdivider and/or property owner shall initially defray the entire cost of the oversized facility, unless the City Council determines otherwise. Upon application by the subdivider or property owner, the City, following dedication to and initial acceptance by the City of the facility constructed and authorization of such participation, may refund the costs of oversizing the facility according to the following standards and procedures:

1.    Oversizing Standards. The following standards apply to the determination of the costs of oversizing water and/or sanitary sewer mains:

a.    The size of a standard sized sanitary sewer main shall be a minimum of six inch (6") lines or larger, as determined by the City, to serve the property being developed and the remainder of the drainage basin beyond the property being served.

b.    Standard sized water mains shall be a minimum of six inch (6") lines for residential development and a minimum of eight inch (8") lines for all other development or sized as required by the City's latest Water Distribution Analysis and to form a grid of twelve inch (12") lines at maximum one half ( $\frac{1}{2}$ ) mile spacing with eight inch (8") lines looped at maximum one quarter ( $\frac{1}{4}$ ) mile intervals within the

distribution system, unless the City determines the fire flow or domestic services require larger lines.

c. Where the size of the water or sanitary sewer main exceeds a standard sized facility, or where the development's share of the costs of other appurtenances to such facilities must be determined, such capacity determination shall be made by the Director of Utilities, whose decision shall be final.

d. The City shall pay only the difference in cost between the size main necessary for the development and the size main required by the City.

B. City Participation in Perimeter Water and Sanitary Sewer Mains. In addition to participation in the costs of oversizing, where the subdivider and/or property owner is required to construct a water or sanitary sewer main adjacent to or contiguous to the development, the City shall participate in one-half (½) the reasonable construction costs of the size water or sanitary sewer main necessary to serve the subdivision for the length of the main lying along the perimeter of the property. This shall not apply for mains being installed adjacent to state right-of-way, utility right-of-way or where parallel mains are installed along both sides of the street. The subdivider and/or property owner shall make a request for refund prior to construction of the facility, and no refund shall take place until the facility has been dedicated to and accepted by the City, and the City has authorized such participation.

C. Reimbursement For Off-site Extensions. In addition to participation in the costs of oversizing, where the subdivider and/or property owner is required to extend water or sanitary sewer mains to the property to be platted, the City shall reimburse the developer for the reasonable construction costs of such extension, up to but not greater than one hundred percent (100%) of his participation in the construction cost thereof. The subdivider and/or property owner shall make a request of refund prior to construction of the facility, and no refund shall take place until the facility has been dedicated to and initially accepted by the City, subject to City Council approval and funds being available. After June 20, 1990, off-site lines not included in the 10-Year Impact Fee Capital Improvements Program will be paid for upon completion and initial acceptance subject to Council approval and funds being available. If the request is denied, the subdivider and/or property owner has the option of defraying the entire cost or abandoning the project.

## **Section 9.05    Fees Due City For Existing Mains**

When an existing water or sanitary sewer main constructed, purchased or financed by the City, including off-site/oversize reimbursement contracts lies in a street, alley or easement in or adjacent to an area or tract of land to be subdivided and developed, the owner shall pay to the Water Utilities Department the applicable front footage charge for the water main and sanitary sewer main pursuant to the "Water" Chapter, as amended, before extensions from or connections to such line or lines are made. Impact fees for infrastructure improvements associated with the new development are due at the time service is desired. These fees are addressed in the "Impact Fee" Chapter. (Amend Ord 04-001, 1/6/04)

## **Section 9.06    Other Fees**

A. The owner shall be responsible for the acquisition of all required off-site easements. If the owner is unable to acquire the necessary off-site easement, he shall provide the City with documentation of his efforts, including evidence of a reasonable offer made to the affected property owner. Upon such a written request for assistance, the City may, at its option, acquire these easements either through negotiations or through condemnation in appropriate situations. The owner shall reimburse the City for the costs of acquiring the necessary easements including but not limited to attorney fees.

B. Fees, as established by resolution of the City Council, are levied for the plat review and inspection of water and sanitary sewer facilities constructed in subdivisions including off-site facilities, but excluding oversize costs:

1. Preliminary plats, plat revisions or plat showings presented that require no water or sanitary sewer improvements to existing facilities shall be assessed a fee, as established by resolution of the City Council, for processing the entire preliminary plat, plat revision, or plat showing to be paid at the time preliminary plat, plat revisions and plat showing is submitted.

2. Preliminary plats, plat revisions or plat showings presented that require water or sanitary sewer improvements shall be assessed a fee, as established by resolution of the City Council, equaling a percentage of the total cost of utility improvements as calculated by the Director of Utilities.

a. A minimum fee, as established by resolution of the City Council, for a preliminary plat, plat revision or plat showing shall be assessed per preliminary plat, plat revision and plat showing.

b. At the time contract documents for construction are submitted, the plat review and inspection fee will be calculated. A copy of the bid giving a breakdown of the unit costs shall be submitted along with an insurance certificate showing proper coverage. This fee must then be paid by the owner to the Water and Sewer Fund prior to construction beginning on the public water and sanitary sewer improvements.

### **Section 9.07     Procedures for Extensions**

Water and sanitary sewer main extensions to serve a subdivision in the City may be accomplished in the following manner:

A. Upon approval by the City, the owner's engineer shall design and prepare construction drawings of water and sanitary sewer facilities to serve the subdivision, including any off-site facilities that may be required. These drawings shall conform in all details to the City's Standard Specifications as to design, grade, location, size and quality of materials and construction.

B. Plans and profiles submitted by the owner's engineer shall be on standard twenty-two inch by thirty-four inch (22" x 34") sheets of blueline paper. Plans and profiles shall be shown at scales of one inch (1") to twenty feet (20') or one inch (1") to forty feet (40') horizontal and one inch (1") to four feet (4') vertical, unless approval is given otherwise. Plans and profiles shall show clearly all surface improvements, all existing or proposed subsurface utility lines and obstructions, and street and alley grades as approved by the Department of Engineering Services. The Texas Licensed Professional Engineer submitting the plans and profiles must affix the Engineer's approved seal, signature, and date to the tracings of all drawings.

C. Upon preliminary approval of the drawings by the City of Arlington Water Utilities Engineering Division, the owner may enter into a contract with a water and sewer contractor approved by the City of Arlington ("three-way contract"); provided, however, that the construction and installation of the water mains and sanitary sewer mains shall be viewed by inspectors of the City to see that the installation is made in accordance with the drawings and the City's

Standard Specifications which, in every instance, shall be a part of said installation contract.

D. Upon preliminary approval, the engineer for the owner shall obtain three (3) blank forms of the Standard City-Owner Agreement. This agreement shall be executed by the water and sewer contractor, owner and approved by the City of Arlington prior to any construction beginning in the subdivision. This Agreement may be referred to as a three-way contract. The contract entered into between the owner and a contractor shall provide for a performance bond, payment bond and maintenance bond in accordance with law, which is a part of the Standard City-Owner Agreement. Each of the above-referenced bonds shall be in an amount equal to the total contract price. An insurance certificate providing adequate coverage for the water and sewer contractor, as set forth in the Standard Specifications, and a copy of the bid giving a breakdown of the unit costs shall be submitted with the contract documents.

E. As a condition of City acceptance of the three-way contracts, and prior to beginning any work, the owner shall file any deed restrictions or real property restrictive covenants applicable to the property. All lienholders who agree to be subject to applicable deed restrictions or real property restrictive covenants, or any deed restrictions or real property restrictive covenants lawfully adopted in the future, even in the event of foreclosure, shall so state. If any lienholders refuse to be subject to the applicable deed restrictions or real property restrictive covenants, or any deed restrictions or real property restrictive covenants lawfully adopted in the future, even in the event of foreclosure, the owner shall so state by affidavit submitted prior to the acceptance of three-way contracts. In the event that there are no deed restrictions or real property restrictive covenants filed or contemplated on the property, that fact must be stated in an affidavit submitted by the owner.

F. Upon final approval, the owner's engineer shall furnish the City such prints as the City may require. When the project is ready for construction and the plat has been filed with Tarrant County, it shall be the responsibility of the owner's engineer to furnish line and grade stakes on water and sanitary sewer mains, water and sewer services, fire hydrants, manholes and manhole tops. After installation and initial acceptance by the City, the owner's engineer shall furnish one (1) "as-built" set of drawings to the City along with a digital file of the "as-builts" compatible with the Water Utilities Engineering Division latest version of software requirements. No installation of water and/or

sanitary sewer mains will be made at any other location except a dedicated street, alley or an easement running in favor of the City which shall be filed of record by the owner of said addition. Any such installation, when correctly made, shall become the property of the City, free and clear of all encumbrances. In the event installation of water and/or sanitary sewer facilities results in a condition such that water utility improvements are not totally within City right-of-way, dedicated streets, alleys, city easements or other appropriate city property, then such installation will be automatically rejected and the owner or developer shall be liable for correcting such condition. The owner and/or developer shall reimburse and indemnify City for any expense incurred due to any incorrect installation. Such reimbursement shall include attorney fees and any other expense that arises from the condition of an incorrect installation as described above.

#### **Section 9.08    General**

Any and all sums of money hereinafter collected as a fee or connection charge under this Chapter, at the rate set out in this ordinance, shall be credited to the Water and Sewer Fund of the City.

A.    City Not Obligated If Funds Not Available. In no event shall the City be obligated to proceed under the terms of this ordinance if funds are not available, or if in the discretion of the City, the extension may not be practical. Nothing in this ordinance shall be construed as a surrender by the City of its control over streets, alleys, public ways or public easements. The decision of the Director of Utilities shall be final in determination of line size and approval of drawings and specifications.

B.    Standard Specifications. All water and sanitary sewer work shall be done in accordance with the most current "Standard Specifications for Waterworks and Sewerage Improvements".

C.    No Vested Rights. No person shall acquire any vested rights under the provisions of this ordinance. (Amend Ord 97-156, 12/09/97)

### **ARTICLE X PENALTY**

#### **Section 10.01    Penalty**

Any person adjudged guilty of an offense under this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500). Each occurrence of the violation shall constitute a separate offense.

**Section 10.02    Culpability**

If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required and the offense is one of strict liability. (Amend Ord 05-014, 2/22/05)

**ARTICLE XI  
MUNICIPAL SETTING DESIGNATIONS**

**Section 11.01    Findings**

The City Council of the City of Arlington makes the following findings:

- (1) There are areas of shallow groundwater within the City and its extraterritorial jurisdiction that are not usable as potable water sources;
- (2) Commercial and industrial properties exist in Arlington and its extraterritorial jurisdiction underlain with unusable groundwater that have become contaminated by historical on-site or off-site sources;
- (3) The City of Arlington does not utilize groundwater as a source for public drinking water, and less than six (6) percent of all municipal water supplies in Tarrant County come from groundwater sources;
- (4) The use of municipal setting designations within Arlington and its extraterritorial jurisdiction allows for a state-evaluated corrective action process for groundwater that is directed toward protection of human health and the environment balanced with the economic welfare of the citizens of the City; and
- (5) Where public drinking water is available, the use of groundwater as a potable water source in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to human health.

**Section 11.02    Definitions**

As used in this division, unless the context clearly indicates otherwise:

*Affected community* means those persons entitled to notice in Section 11.06(A)(3) below.

*Applicant* means the owner of the land seeking an MSD.

*Authorized representative* means, for purposes of signing an application, if the applicant is a corporation, the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; if the applicant is a partnership or sole proprietorship, a general partner or proprietor, respectively; if the applicant is a limited liability company, the manager; and if the applicant is a local government, the chief executive officer or his authorized designee.

*Chemical of concern* means any chemical that has the potential to adversely affect ecological or human receptors due to its concentration, distribution, and mode of toxicity.

*Director* means the Director of Environmental Services, or other employee designated by the City Manager to enforce and administer this chapter, or the Director's designated representative.

*Environmental risk assessment* means the qualitative and quantitative evaluation performed in an effort to define the risk posed to human health and/or the environment by the presence or potential presence and/or use of contaminants as defined in Section 361.801(1) of the Texas Health and Safety Code.

*Groundwater* means water below the surface of the earth.

*Municipal setting designation (MSD)* means a designation as provided by Chapter 361, Subchapter W, of the Texas Health and Safety Code, which authorizes the Executive Director of the Texas Commission on Environmental Quality (TCEQ) to certify municipal setting designations in order to limit the scope of or eliminate the need for investigation of or response actions addressing contaminant impacts to groundwater that has been restricted from use as potable water by ordinance or restrictive covenant.

*Potable water* means water that is used for irrigating crops intended for human consumption, drinking, showering, bathing, or cooking purposes.

**Section 11.03 Use of Groundwater in MSD Areas as a Potable Water Source Prohibited**

- A. A person commits an offense if the person intentionally, knowingly, or with criminal negligence uses groundwater in a MSD area as a potable water source.
- B. A person commits an offense if the person intentionally, knowingly, or with criminal negligence uses groundwater in a MSD area for a purpose prohibited in the ordinance creating that MSD.

**Section 11.04 Application for City Council Approval of MSD**

- A. A person, excluding the City of Arlington, seeking City Council approval of a MSD for an area within the corporate limits of the City of Arlington, or within its extraterritorial jurisdiction, shall apply in writing, with the number and format of copies, as determined by the Director.
- B. An application shall contain:
  - 1. The applicant's name and address, and the name, address, daytime telephone number, and email address of a contact person and the licensed professional who prepared the application;
  - 2. The location and legal description of the proposed outer boundaries of the MSD area for which designation is sought;
  - 3. A copy of the application with the Executive Director of the TCEQ for a MSD for the area;
  - 4. A statement as to whether a public drinking water supply system exists that satisfies the requirements of Texas Health and Safety Code Chapter 341 and that supplies or is capable of supplying drinking water to the area for which the MSD is sought, and property within one-half mile of the area for which the MSD is sought;
  - 5. A description of the groundwater sought to be restricted, including the identified chemicals of concern therein and the levels of contamination known to the applicant, and the identified vertical and horizontal extent of the contamination. If the applicant has not documented groundwater contamination offsite that originates from the area for which an MSD is sought, the application shall include a

statement as to whether contamination more likely than not exceeds a residential assessment level offsite and the basis for that statement;

6. Identification of the person(s) responsible for the contamination of the groundwater, if known;

7. A listing of:

a. All state-registered private water wells within five (5) miles from the boundary of the area for which the designation is sought, including a notation of those wells that are used for potable water purposes (if known), and a statement as to whether the applicant has provided the owners with notice as provided in Texas Health and Safety Code Section 361.805;

b. Each retail public utility, as that term is defined in the Texas Water Code, that owns or operates a groundwater supply well located not more than five (5) miles from the area for which the MSD is sought, and a statement as to whether the applicant has provided the retail public utilities with notice as provided in Texas Health and Safety Code Section 361.805; and

c. Each municipality, other than the City of Arlington, with a boundary located not more than one-half (1/2) mile from the area for which the MSD is sought; or that owns or operates a groundwater supply well located not more than five (5) miles from the area for which the MSD is sought; and a statement as to whether the applicant has provided the municipalities with notice as provided in Texas Health and Safety Code Section 361.805;

8. A site map, drawn to scale, including a metes and bounds description of the proposed MSD area, the boundary of the proposed MSD area, the location of groundwater on the proposed MSD area, and the extent of groundwater contamination to the limits that it has been defined. The map shall include a statement by a professional land surveyor registered by the Texas Board of Professional Surveying attesting to the accuracy of the metes and bounds description; and

9. Any other information that the Director deems pertinent.

C. The application shall be signed by an authorized representative of the applicant and shall contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in a manner designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

D. An application shall be accompanied by:

1. A set of printed mailing labels with the names and addresses of persons listed in Subsection (B)(7) above;
2. An electronic file of the names and addresses of persons listed in Subsection (B)(7) above, in a format acceptable to the Director and compatible with City information systems; and
3. A nonrefundable application fee of \$1,000 and actual Tarrant County recording fees.

E. An applicant may withdraw its application only in writing by letter sent certified mail, return receipt requested, to the Director, and shall forfeit the application fee. If the Director has not issued public notice prior to the receipt of the withdrawal letter, the applicant may reapply at any time. If public notice has issued, a new application is subject to the limitations of Section 11.09 below.

#### **Section 11.05 Staff Review**

A. For purposes of the times stated in this ordinance, an application is deemed to have been received on the date that the application was actually received by the Director, as indicated by the file date stamped on the application by the department of Environmental Services.

B. The application for a MSD shall be forwarded to the Development Review Committee (DRC) for staff review. The purpose of the review is to determine whether the application is complete, and whether any current or future City property or other interests have the potential to be impacted by the proposed MSD. City staff shall not conduct an environmental risk assessment of the application.

C. City staff review and reporting to the applicant will be within the established DRC timetables. DRC will provide a written report noting any discrepancies in the application, and advising of any City interests that may potentially be impacted by the proposed MSD.

D. If the Director determines that the application is incomplete, he will return the application to the applicant, noting the deficiencies in writing. The applicant shall have thirty (30) days from the date of the deficiency letter to correct the deficiencies and resubmit the application. If the applicant fails to submit a corrected application within the allotted time, the application shall be deemed to be withdrawn and the application fee forfeited.

E. If the Director determines that the application is complete, he will schedule a public meeting and a public hearing. The public meeting must be held prior to the public hearing.

1. A public meeting will be scheduled approximately forty-five (45) days following the day the application was received; and

2. A public hearing of the City Council will be scheduled approximately sixty (60) days following the day the application was received.

#### **Section 11.06 Notice of Public Meeting and Public Hearing**

A. Notice of the public meeting and the public hearing on a MSD application may be combined and must include the date, time and location of the two (2) events, the identity of the applicant, the location and legal description of the area for which the MSD is sought, the purpose of the MSD, the type of contamination identified in the groundwater of the area for which the MSD is sought, and a statement that a copy of the application is available for public viewing at the department of environmental services. Notice will be made as follows:

1. The Director will publish notice of a public meeting and a public hearing for a proposed MSD in the official newspaper of the City, not less than fifteen (15) days before the public meeting;

2. The Director will request that the City Secretary post the notice at City Hall, in a place readily accessible to the general public at all times, not less than fifteen (15) days before the public meeting; and

3. The Director will provide written notice of a public meeting and a public hearing for a proposed MSD, not less than fifteen (15) days before the date of the public meeting by properly addressed and regular postage paid, in the United States mail. Notice will be mailed to:

- a. The applicant;
- b. The list provided by applicant pursuant to Section 11.04(B)(7);
- c. The executive Director of the Trinity River Authority, if the area for which an MSD is sought is within five (5) miles of the Trinity River; and
- d. All owners of real property lying within 200 feet of the subject property, as the ownership appears on the last approved City tax roll.

B. The Director will direct the posting of at least one (1) sign upon the area for which a MSD has been requested. Posting shall be in the same manner as zoning amendments. The sign(s) must state that an MSD has been requested for the area and that additional information can be acquired by telephoning the number listed thereon or visiting the web site address listed thereon. The erection and/or the continued maintenance of any such sign shall not be deemed a condition precedent to the holding of any public meeting or public hearing or to any official action concerning the MSD application.

### **Section 11.07 Public Meeting**

A. The purpose of a public meeting is for the applicant to provide information to the affected community about MSDs and the application and to obtain input on the application prior to a formal hearing before the City Council.

B. The public meeting will be held in the evening at a location convenient to the affected community.

C. The applicant or its representative must appear at the public meeting. If the applicant fails to appear at the public meeting either in person or by representative, the application shall be deemed withdrawn and the application fee forfeited.

D. The Director will conduct the meeting, giving the applicant or its representative the opportunity to present its reasons for requesting an

MSD, and giving members of the affected community the opportunity to ask the applicant questions or make oral comments on the application.

E. The Director will make a tape recording of the public meeting available for the public.

### **Section 11.08 City Council Public Hearing**

A. Prior to the public hearing, the Director will provide the City Council a copy of the application, and a written report summarizing the request for the MSD approval, any staff comments, and minutes of the public meeting.

B. The applicant or its representative must appear at the public hearing and present the request for a MSD approval. If the applicant fails to appear at the public hearing, the application shall be deemed withdrawn and the application fee forfeited.

C. Persons wishing to speak either in favor of or against the application will be provided the opportunity in accordance with City Council guidelines for public hearings.

D. If approving an application, the City Council shall:

1. Adopt a resolution supporting the application to be presented to the TCEQ; and

2. Enact an ordinance prohibiting the potable use of designated groundwater from beneath the MSD area. The ordinance must include a metes and bounds description of the MSD area to which the ordinance applies; a listing of the contaminants; and a statement that the ordinance is necessary because the contaminant concentrations exceed TCEQ potable water standards.

3. Place other reasonable restrictions on the use of designated groundwater and including, but not limited to, specification of underground construction materials to be used in the MSD area.

E. City Council approval of an application shall not be deemed to waive the City's right to comment on a MSD application that has been filed with the Executive Director of the TCEQ as provided by Texas Health and Safety Code Section 361.805.

## **Section 11.09     Limitation on Reapplication**

If after public hearing the City Council disapproves an application, or if the applicant has withdrawn its application after public notice has issued, no new MSD applications for the proposed MSD area shall be accepted by the City or scheduled for a public hearing by the City Council within a period of twelve (12) months of the date of disapproval or withdrawal.

## **Section 11.10     Additional Requirements**

- A.     A person who has received approval of a MSD from the City, shall, upon issuance from the TCEQ, provide the Director with a copy of the certificate of completion or other documentation issued for the MSD area, showing that response actions, if required, have been completed.
  
- B.     A person commits an offense if they fail to provide the Director with the documentation required in Subsection (A) above, within thirty (30) days of its issuance by the TCEQ.

(Amend Ord 06-089, 8/22/06)

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