

## Chapter 102 - UTILITIES<sup>11</sup>

### Footnotes:

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**State Law reference**— Municipal utility systems, general powers, V.T.C.A., Local Government Code § 402.001 et seq.; water systems in home-rule municipalities, V.T.C.A., Local Government Code § 402.017; municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Water Code § 13.042(a).

## ARTICLE I. - IN GENERAL

### Sec. 102-1. - Public works director; duties.

- (a) That the town council hereby establishes the position of director of public works for the town.
- (b) The director of public works shall perform supervisory work of average difficulty in overseeing the construction, operation and maintenance of streets and drainage systems, water and sewer systems and perform related work as required and directed by the town manager. Such duties shall include, but not necessarily be limited to, the following:
  - (1) Administers and directs the operation of the department.
  - (2) Responsible for the management and administration of all employees in the department.
  - (3) Plans and schedules work projects.
  - (4) Actively participates in the work with crews engaged in the construction and maintenance of streets, alleys and draining systems, involving building form and pouring concrete, patching, spreading sand, gravel and asphalt, laying drainage pipe, building catchbasins and storm sewers, cutting, collecting and disposing of trees, limbs, leaves and debris.
  - (5) Actively participates in the work with crews engaged in the construction and maintenance of water and sewer systems.
  - (6) Ensures the efficient and safe operation of heavy equipment, such as, backhoes, graders, rollers, asphalt trucks and related equipment.
  - (7) Recommends and implements policies and procedures within the department of public works.
  - (8) Order and maintain materials and supplies.
  - (9) Prepares and administers the departmental budget.
  - (10) Maintains operational records and makes monthly reports to the mayor and town council.
  - (11) Investigates complaints and takes or recommends appropriate actions.

(Ord. No. 283, §§ 1—3, 12-2-1991)

### Sec. 102-2. - Public works inspection fees.

- (a) Public works inspection fees are established as follows:

- (1) For the development of any subdivision, the developer/owner shall pay an administrative inspection fee of 2.5 percent of the total contract amount of the work involving the installation or improvement of any of the following items intended for dedication to the town, located on town-owned property, and/or within a public easement: Streets, alley ways, water, sewer, drainage or storm sewer systems, sidewalks, screening and/or retaining walls, and/or fences. Fifty percent of this fee must be paid at the time of the preconstruction meeting; the remaining 50 percent must be paid prior to final acceptance of the subdivision by the town.
  - (2) An additional fee of \$40.00 per hour, with a two hour minimum, shall be assessed for any inspections scheduled after regular town business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.), or on holidays. After-hour and holiday inspection requests must be scheduled at least 24 hours in advance, and the fee paid at the time of the inspection request.
- (b) The provisions of this article shall apply to any subdivision for which building permits have not yet been issued as of the effective date of the ordinance from which this article is derived.
  - (c) The town reserves the right to review and audit, should same be necessary, the contract amounts as supplied by the developer/owner for accounts calculated pursuant to this article.
  - (d) The fees provided for herein shall be cumulative of all other fees which may be required by law.

(Ord. No. 405, §§ 1—4, 12-29-1997)

Secs. 102-3—102-22. - Reserved.

## ARTICLE II. - WATER AND SEWER SERVICES<sup>121</sup>

Footnotes:

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**State Law reference**— Municipality may provide sanitary sewer system and require connections, V.T.C.A., Local Government Code § 214.003; water systems in home-rule municipalities, V.T.C.A., Local Government Code § 402.017.

### DIVISION 1. - GENERALLY

Sec. 102-23. - Charge.

- (a) *Purpose of article; vested right not to be created* . The intent and purpose of this article is to provide an equitable charge whereby water and/or sanitary sewer service can be provided or standard mains can be constructed to serve property not previously served within the boundaries of the town, or its extraterritorial jurisdiction. This service charge shall represent a proportionate distribution of the cost of water and sewer main extensions and shall be uniformly enforced against all property, as required, under the terms of this article and shall be due and payable before service is provided. No person shall acquire any vested rights under the terms and provisions of this article.
- (b) *Definitions* . All the words used in this article shall carry their customary meanings except where specifically defined as follows:

*Applicant* shall mean an individual owner of a lot or tract of land, or his agent, requesting water or sanitary sewer service to said lot or tract of land which is not intended to be subdivided or developed for resale, rent or lease purposes.

*Approach main* shall mean that portion of a water or sanitary sewer main extension for which the applicant or developer has paid the total construction cost and which will provide service to adjacent properties over which said applicant or developer has no vested interest or control.

*Boundary main* shall mean that portion of a water or sanitary sewer main extension for which the applicant or developer has paid the total construction cost and which provides services adjacent to the applicant or developer's property but which can also provide service to the property on the opposite side of the street, alley or easement and over which said applicant or developer has no vested interest or control.

*Developer* shall mean the owner or agent of the owner developing a lot or tract of land for resale, rent or lease as residences, apartments, businesses, commercial or industrial use.

*Director* shall mean the director of the Little Elm Water Utilities Department or his duly authorized representative.

*Engineer* shall mean professional engineer licensed and authorized to practice engineering by the state.

*Front footage* shall mean the length in feet along the property line of a lot or tract of land which abuts a dedicated street, alley, easement, or right-of-way on which water and/or sewer service is received, and on which the pro rata charge is based. In the case where any property abuts more than one street, easement, alley, or right-of-way, the front footage will be determined by that side from which the property is served.

*Person.* See "Applicant."

*Town* shall mean the Town of Little Elm, Texas.

*Town council* shall mean the council of the Town of Little Elm, Texas.

*Town manager* shall mean the manager of the Town of Little Elm, Texas.

- (c) *Establishing pro rata charge* . There shall be a service charge due on all property to which water and/or sewer mains are extended to serve after the adoption of this article or when service is provided from an existing pro rata main which was constructed between January 1, 1982, and the adoption of this article. This charge shall be called the pro rata charge for water and/or sewer and shall be due and payable before service is provided. The pro rata charge shall represent a portion of the cost of providing water or sewer facilities to serve the property on which the pro rata charge is paid.
- (d) *Determining property frontage* . The front foot charge contained herein shall apply to property fronting on utility mains from which service will be provided. In the case where water and/or sewer service will be provided from a main located in an alley, easement or side street adjacent to said property, the pro rata charge shall be determined by the property frontage as outlined above.
- (e) *Irregular shaped lots or tracts of land* . Where lots or tracts of land are so situated or shaped that the property frontage rule creates an inequitable basis for the pro rata charge when compared between it and other lots or tracts of land in the town, then in that event, the water utilities department shall establish the proper charge in accordance with the intent and purpose of this article. This charge shall be based upon equivalent rectangular lots or tracts using one front foot for each 150 square feet of area or the average frontage of other rectangular lots or tracts which have approximately the same total area.
- (f) *Rights under previous ordinance* . The rights of persons entitled to refunds under previous ordinance where the installations have actually been made for water and/or sewer mains shall remain unaffected by this article. All rights and remedies which have accrued in favor of the town under this article shall be and are preserved for the benefit of the town.
- (g) *Existing mains exempt*. All property platted into lots or tracts and having existing water and/or sewer mains installed either by the town or by a developer prior to this article, shall be exempt from the pro rata charges when water and/or sewer service connections are to be provided from such existing mains. Where such property is later developed or subdivided and a main extension is required or where such property has never taken service and the existing mains are replaced with larger sized pro rata mains, then the terms of this article shall apply.

- (h) *Certain projects of the town* . The pro rata charges may either be waived or required for certain water and/or sewer extension projects of the town. When town funds or other resources are used to pay part or all of the cost of such improvements, the provisions of this subsection may apply to any industrial park or other development projects as may be designated by the town council, provided however, nothing contained herein shall be construed to eliminate or waive any other charges.
- (i) *Connection fee for extension of from existing pro rata main* . When a water and/or sewer main extension is required to serve any property that will require connecting to an existing pro rata main, the person requesting the extension shall pay a nonrefundable pro rata main connection charge. This charge shall be in addition to any other pro rata charges or main extension costs that are required and shall be as follows: Each time an extension connection is made at any point on the existing pro rata main, a main connection charge in the amount of \$200.00 per diameter inch of the extension shall be paid to the water utilities department. If applicable, this payment shall be applied to the existing pro rata main refund contract, otherwise it shall be deposited in the proper pro rata fund.

Sec. 102-24. - Termination of provisions concerning pro rata water and sewer mains.

- (a) All provisions in this article concerning the extension or addition of "pro rata" water or sewer mains, restricting or limiting applicable charges, are inapplicable and void as of the date of September 11, 1984.
- (b) Effective September 11, 1984, all charges in this article previously limited or restricted to "pro-rata" mains are applicable and chargeable to the extension or addition of all water and sewer mains without regard to whether the particular line being extended constitutes a pro-rata water or sewer main line, or some other character of water or sewer main line.
- (c) Nothing in this section shall be construed to amend or modify the calculation of any refund entitlements or credit or the manner in which a particular type of main line is defined or the method of determination thereof.

(Ord. No. 200, §§ 1—3, 9-11-1984)

Sec. 102-25. - Adoption of Texas Administration Code.

- (a) The rules (rules), Title 30 Texas Administrative Code (TAC) sections 285.1—285.91 and 30 TAC chapter 30, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities, as the same may be hereafter amended or superseded, are hereby adopted, and all officials and employees of the town having duties under said rules are authorized to perform such duties as are required of them under said rules.
- (b) The rules shall apply to all of the area lying within the incorporated limits of the town. Any permit issued for an on-site sewage facility within the jurisdictional area of the town must comply with the rules.
- (c) The town clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with the regulating on-site sewage facilities, and will fully enforce V.T.C.A., Health and Safety Code ch. 366, V.T.C.A., Water Code chs. 7 and 37, and the rules.
- (d) The town recognizes and understands that it may and has the authority to adopt rules and standards which are more stringent than the rules and that, if such rules and standards are adopted and are more stringent than the rules, the more stringent rules and standards shall take precedence over the corresponding Texas Commission on Environmental Quality requirements; the town reserves its right and authority to adopt such rules and regulations.
- (e) The town recognized that its on-site sewage facilities inspector must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.
- (f) All fees collected for permits and/or inspections shall be made payable to the town.
- (g) Persons aggrieved by an action or decision of the designated representative (inspector) may appeal such action or decision to the town council of the town.

(Ord. No. 752, § 3, 1-3-2006)

Sec. 102-26. - Cross connection and backflow prevention policy adopted.

The town hereby approves and adopts the Town of Little Elm Cross Connection Control Policy (hereinafter referred to as the "policy"), which is attached to Ordinance No. 1098 and kept on file with the town, and incorporated herein for all purposes as Exhibit A. The town commits to implement the requirements and procedures set forth in the adopted policy.

(Ord. No. 1098, § 2(exh. A), 5-15-2012)

Secs. 102-27—102-51. - Reserved.

## DIVISION 2. - WATER AND SEWER SERVICE FOR INDIVIDUAL OWNERS

Sec. 102-52. - Pro rata charges for water and sewer service.

- (a) *Within the town limits* . When a person desires water and/or sewer service to property within the town limits that requires an extension from existing facilities or when the service connection will be made to either an existing pro rata main or a main constructed after the adoption of this article, the person desiring such service shall pay a nonrefundable charge hereafter called the "pro rata charge."
- (1) When the main is adjacent to the property desiring service, the pro rata charge shall be based on the "actual" total construction cost, including engineering, across the entire front footage of the property desiring service, and no adjustments or deductions shall be made for crossing street intersections, alleys, or property already served.
  - (2) Where the main is not adjacent to the property desiring service, a payment of the water or sewer pro rata charge shall be based on the "estimated" total construction cost of the required extension, including engineering. This charge shall be adjusted based on the actual construction cost, including engineering, upon completion of the extension. The payment of the pro rata charge shall entitle the person requesting service to acquire an extension of a water or sewer main a distance equal in length to the frontage on which the pro rata charge is paid. If the footage of pipe required for an extension is greater than a distance equivalent to the frontage on which the pro rata charge is paid, the person desiring service shall pay the actual total construction cost, including engineering, for the footage of pipe which is in excess of that distance equal to his frontage. The actual total construction cost shall include extending the main across the entire frontage of the property desiring service, and no adjustments or deductions shall be made for crossing street intersections, alleys, or property already served. That portion of the total cost in excess of the frontage of the property desiring service shall be refundable as provided herein for an approach main.

When two or more individual desire water or sewer service, the main may be extended a distance equivalent to the combined frontage on which the pro rata charges are paid. When such distance is not adequate to provide service to all the requesting parties, the service requests shall be considered individually and the terms provided herein for approach mains shall apply. Pro rata water and/or sewer mains shall be provided only to property adjacent to, or served by, dedicated streets, alleys, or utility easements of record which are consistent with the town's comprehensive and master plans. Easements required for pro rata extensions shall be provided by the applicant who shall bear the full cost of acquisition of same. The cost of acquisition of said easements may be included in the pro rata refund contract with the applicant and said cost to be assessed along the front footage.

- (b) *Outside the town limits* . All service connections or main extensions outside the town limits shall conform to the policy adopted by the town council for said connections or extensions. In order to initiate a request for water and/or sewer service connections or main extensions outside the town limits, the person desiring service shall submit to the water utilities department the following:
- (1) A check, cash, or money order in an amount equal to the pro rata charge due, including the required tapping fee and deposit;
  - (2) A letter describing the type of service being requested (water, sewer, or both); the location, owner and applicant, if different from the owner; the nature of the use for which the service is being requested; and the size of service or extension requested, three-quarter inch or larger for water, four inches or larger for sewer.

Pro rata charges for water and/or sewer service to property outside the town limits that requires an extension from existing facilities or requires a service connection to an existing pro rata main, or a main constructed after the adoption of this article, shall be computed on the same basis as those charges established in subsection (a) of this section.

(Ord. No. 177, § 2, 5-24-1983)

Secs. 102-53—102-77. - Reserved.

### DIVISION 3. - WATER AND SEWER SERVICES FOR DEVELOPERS

Sec. 102-78. - Main extensions to serve property being subdivided or platted for development.

When extensions of water and sanitary sewer mains are required to serve any property which is being subdivided or platted in accordance with the subdivision regulations of the town, the owners or developers of such property shall pay the total cost of the extensions necessary to completely serve the property. The extensions required to completely serve the property shall conform to the "Standard Design Criteria" and "Master Utility Plan" of the water utilities and shall include the requirements for domestic service and fire protection service to the areas through which the lines extend. It shall be mandatory that water service lines and/or sewer service wyes and service lines be installed by and at expense of the owners or developer on all water and/or sewer main extensions. That portion of the extension cost paid by the owners or developers for approach mains or boundary mains shall be refundable as provided herein for such mains.

(Ord. No. 177, § 3, 5-24-1983)

Sec. 102-79. - Engineering to be furnished by developer.

- (a) The developer shall engage the engineer or engineering firm of his choice, and said engineer shall be duly licensed to perform engineering work in the state. The developer's engineer shall prepare and submit to the water utilities department the following data for preliminary approval:
- (1) One copy of a general area map, plat or sketch, showing general location of area to be served in relation to existing roads, streets, and known points and further showing the approximate location of all existing water and wastewater facilities within the general area.
  - (2) Three copies of a recorded plat or map of the subdivision or area to be served, showing all dedicated streets, easements and rights-of-way within and immediately adjoining the area to be served. Said plat or map shall show contour elevations of the area, based on USC and G.S. datum, in sufficient detail for preliminary study. Said plat or map shall further show the proposed layout of the water and/or sewer improvements to serve the subdivision or area and shall show adequate details for preliminary study, including proposed main size and grade, where required,

proposed location of fittings and appurtenances (including fire hydrants) and location or approximate distance and route to any existing water and/or sewer improvements in general area.

- (3) Three copies of a preliminary cost estimate for the total proposed improvements, including engineering.
  - (4) Three copies of a letter, signed by the developer, requesting preliminary approval and indicating his desire to enter into contract for furnishing said improvements.
- (b) The water utilities department shall review the preliminary data submitted, confer with the developer and his engineer as required and recommend such changes as are required to meet federal, state and local authority standards.
  - (c) The developer shall deposit with the water utilities department any funds required by contractual arrangements. Said funds shall be deposited in a construction account.
  - (d) The developer's engineer shall prepare detailed construction plans and specifications for each segment of the proposed improvements and submit three sets of same for review by the water utilities department prior to construction. No construction shall begin prior to the water utilities department's approval, in writing, of construction plans and specifications.
  - (e) Upon approval of construction plans and specifications, the developer's engineer shall provide all fieldwork supervision and inspection necessary to insure that construction complies with approved plans and specifications. The water utilities department shall have the right to perform its own inspection as required to ensure that proper construction techniques are being followed without relieving the developer's engineer of any responsibility.
  - (f) Proper sterilization techniques shall be followed in construction of water lines and, upon completion of construction, a water utilities representative shall be present during the opening of any valves to fill newly constructed lines from any existing mains and a representative of the water utilities department must be present to supervise the filling, flushing, and testing of all newly constructed water mains. Upon completion of flushing and testing, a representative of the water utilities department shall collect samples from the newly constructed lines for bacteriological tests. The valves connecting the newly constructed lines to the existing lines shall remain closed, except for supervised filling, flushing, and testing, until such time as the improvements, as constructed, have been certified by the water utilities department as being acceptable for operation and public use.
  - (g) Immediately following completion of construction and testing of the improvements, the developer's engineer shall prepare and submit one set of certified reproducible "as-built" detail plans of the completed project together with two copies of certified final cost estimates, including engineering, for the project and a letter from the developer requesting final approval and acceptance of the improvements for maintenance and operation by the water utilities department. A representative of the water utilities department shall accompany the developer, engineer and contractor during final inspection of the improvements.
  - (h) The developer and his engineer will be notified of final acceptance of the improvements by the water utilities department by letter as soon as practicable following receipt of all required, acceptable date. At this time, the newly constructed improvements shall start the one-year maintenance period whereby the developer and the contractor shall indemnify the town against any repairs which may become necessary to any part of the work performed in the construction of the extensions arising from defective workmanship or materials used therein, for a period of one year from the date of final acceptance of work. An acceptable maintenance bond shall be provided to the water utilities department to guarantee that all required repairs or work will be properly and expeditiously corrected after notification by the water utilities that corrective measures are required.

(Ord. No. 177, § 4, 5-24-1983)

Sec. 102-80. - Contractor to be furnished by developer.

- (a) The property owner or developer of a tract of land being developed and served by water and/or sanitary sewer service shall hire a private contractor to install the complete water or sewer facilities including mains, approach mains, valves, manholes, hydrants, etc., all in accordance with the plans approved by and under supervision of the water utilities department. Payment for the work to be done by the town shall be made prior to the starting of any construction.
- (b) The developer shall provide the water utilities department a copy of the contract between the developer and his contractor for the construction of the improvements for his development or shall, at the water utilities department's option, receive sealed competitive bids for such work in order to determine the fair value of the system.
- (c) The developer's engineer shall submit two copies of all change orders or contract changes to the water utilities department for approval before any changes or modifications are to be performed by the contractor.

(Ord. No. 177, § 5, 5-24-1983)

Secs. 102-81—102-103. - Reserved.

#### DIVISION 4. - MISCELLANEOUS PROVISIONS

Sec. 102-104. - Cost of oversized mains.

- (a) When the master utility plan of the town requires the extension of a main of a size that is larger than that determined by the water utilities department as being adequate to completely serve the property or subdivision desiring service, the town may pay the cost in excess of that required to construct the standard or adequate size mains, when funds are available.
- (b) When funds are not available, the owner or developer shall install, at his own expense, the required oversized mains and shall be refunded by the water utilities department, that additional expense for the construction of such mains. This refund shall be made in ten equal annual payments, without interest, with the first payment to be due on September 1, of the town's fiscal year next following approval and acceptance of the construction by the water utilities department.
- (c) Oversized mains are usually defined as being larger than eight inches in diameter unless a larger size is required to serve the property or subdivision in question. Adequate size of such water and sewer mains shall be as determined by the water utilities department.

(Ord. No. 177, § 6, 5-24-1983)

Sec. 102-105. - Facilities to be property of town.

At the end of the two-year maintenance period after completion of the water and/or sewer facilities by private contractor and acceptance by the water utilities department, or upon completion by the water utilities department, the facilities so constructed shall become and remain the property of the town and shall be maintained as a part of its water and sewer system.

(Ord. No. 177, § 7, 5-24-1983)

Sec. 102-106. - Location for service connection.

The water utilities department shall approve the location of all water or sewer service connections and said service shall be provided to property only from dedicated streets, alleys or utility easements.



(Ord. No. 177, § 8, 5-24-1983)

Sec. 102-107. - Approach main or boundary main contract refunds.

- (a) When the cost of an approach main or boundary main is greater than the pro rata charge due on the applicant's or developer's property, then that cost above the pro rata charge shall remain refundable until either 100 percent of the lots served by the approach main have paid their pro rata charge or until the expiration of the refund contract, whichever occurs first.
- (b) Pro rata contracts as provided for herein shall be executed by the applicant or developer and the town manager. The terms of the contract shall be ten years and the water utilities shall not be liable for refunds of pro rata charges collected after the term of the contract. No interest shall be paid by the water utilities department for any money on which refunds are due.
- (c) Refunds of pro rata charges collected for connections to approach or boundary mains shall be made within 30 days after August 1 and February 1 of each year for all refunds collected during the preceding six months. Refunds shall be payable when the pro rata charge payments have been collected for property on which the refund is based.
- (d) When an applicant or developer is entitled to a refund as a result of the pro rata charge due on adjacent property which he also owns, the refund may be credited to the pro rata refund contract without any payment or refunds being made, provided proper records and documentation are maintained to indicate such transactions.
- (e) When temporary lines or facilities are constructed to expedite the development of a particular area (such as across easement within the subdivision on which no frontage can be connected, or when facilities are constructed which otherwise are not required in the master utility plan of development for the water utilities system), the developer shall bear the total cost without refund.

(Ord. No. 177, § 9, 5-24-1983)

Sec. 102-108. - Pro rata funds; deposits, charges and refunds.

- (a) There shall be a pro rata water fund and a pro rata sewer fund maintained as a part of the water utilities.
- (b) All monies received for water pro rata payments shall be deposited in the water pro rata fund and all monies received for sewer pro rata payments shall be deposited in the sewer pro rata fund.
- (c) Payment of the pro rata or total cost of the extensions, as provided herein, shall authorize the director of the water utilities department to extend sewer service to property on which work done and all charges for work done by the water utilities department to extend water service to property on which the water pro rata has been paid shall be charged to the water pro rata fund and all charges for work done by the water utilities department to extend sewer service to property on which the sewer pro rata has been paid shall be charged to the sewer pro rata fund. All refunds due under the provisions herein provided shall be made from the applicable water or sewer pro rata fund.
- (d) At the town's option, the water utilities department may budget \$10,000.00 per year for the pro rata water fund and/or \$10,000.00 per year for the pro rata sewer fund until such time that each or both of the funds can become self-sustaining.

(Ord. No. 177, § 10, 5-24-1983)

Sec. 102-109. - Both water and sewer service to be provided; connections with water mains to be made by the water utilities department.

Connection to the water or sewer main shall not be permitted unless both services are provided, except in case where either town water mains or sewer mains are not readily accessible. All connections with existing town water mains shall be made by the water utilities department.

(Ord. No. 177, § 11, 5-24-1983)

Sec. 102-110. - Extension into densely populated areas by town at own expense; payment of pro rata charges by property owners.

Where the town governing body finds that in densely populated areas and in specific locations, due to the absence of water and/or wastewater service, the public welfare would best be served by making water and/or wastewater main extensions at its own cost, and after due investigation and consideration in order to avoid and eliminate extremely unhealthful conditions which are contributing factors to epidemics, and where money is available for such purposes, it is the express policy of the town governing body, when expressed by its resolution, to extend water and/or wastewater mains into these densely populated areas, without a main extension charge payment being required from the property owners; provided however, that when mains are extended following such resolution, each property owner shall be required to pay the applicable charges established by this article or the board of directors when such property is connected to the water and/or wastewater main.

(Ord. No. 177, § 12, 5-24-1983)

Sec. 102-111. - Provisions for deferred payments.

- (a) This section shall not apply except in cases of extreme hardship as determined by the water utilities department.
- (b) When the owner of a lot or other undivided parcel of land, the area of which does not exceed one acre, and such owner has not secured an extension under this provision within the preceding 12-month period, has duly requested in writing and on forms provided by the water utilities department, to make water or sewer extensions abutting the trace of land described in the application, and said tract of land is connected with town water or sewer service or is to be connected with such service upon the completion of the requested extension; the water utilities director is authorized to determine the applicable pro rata charge payment to be made for such extension, and to provide the extension under the following conditions:
  - (1) When the owner applicant of said parcel of land has paid to the town a minimum initial payment of 15 percent of the total pro rata charge; and
  - (2) When the owner of said parcel of land shall have executed a contract with the water utilities department creating a valid lien against the parcel of land described in the application, to secure payment of the deferred part of the pro rata charge within 36 months, with minimum monthly payment of \$10.00 each, the annual unpaid balance to bear nine percent interest, and further providing for accelerated maturity with customary provisions applicable to default in payments and further providing that the water utilities is authorized to discontinue water service to the described parcel of land and any premises thereon located, if for any reason the water service bill or any deferred pro rata charge payment is not paid when the town manager may deem expedient and in the public interest. The town manager is further authorized to prescribe and approve the form or application herein provided for, and the form of contract required and such other instruments and requirements as may be deemed necessary or expedient in making the provisions of this section adequately effective.

(Ord. No. 177, § 13, 5-24-1983)

Sec. 102-112. - Theft of water.

A person commits an offense of theft of water by any of the following actions:

- (1) A person may not knowingly tamper, connect to, or alter any component of the town's water system including valves, meters, meter boxes, lids, hydrants, lines, pump stations, ground storage tanks, and elevated storage tanks. This shall include direct or indirect efforts to initiate or restore water service without the approval of the town.
- (2) If, without the written consent of the town manager or his designee, the person knowingly causes, suffers or allows the initiation or restoration of water service to the property after termination of service. For purposes of this section, it shall be assumed that the owner, occupant, or person in control of the property caused, suffered, or allowed the unlawful initiation or restoration of service.
- (3) A person may not knowingly make or cause a false report to be made to the town of a reading of a water meter installed for metered billing.
- (4) A person commits a separate offense each day that the person performs an act prohibited by this section or fails to perform an act required by this section.
- (5) An offense under this article, including the first offense, will result in forfeiture of any and all deposits, removal of meters, and discontinuance of water service by the town. A \$500.00 fee will be required before the town will restore service.
- (6) An offense under this article is a Class C misdemeanor punishable by a fine of up to \$2,000.00 and discontinuance of water service by the town.

(Ord. No. 727, §§ 2—4, 9-13-2005)

Secs. 102-113—102-135. - Reserved.

ARTICLE III. - WATER UTILITIES DEPARTMENT<sup>[3]</sup>

Footnotes:

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**Editor's note**— Ord. No. 820, adopted Feb. 20, 2007, repealed art. III, §§ 102-136—102-186, in its entirety. Said ordinance further provided for a new art. III to read as herein set out. Formerly, said article pertained to similar subject matter as enacted by Ord. No. 56, § 56-1, adopted March 7, 1974; as amended. See the Code Comparative Table for a detailed analysis of inclusion.

Sec. 102-136. - Definitions.

The following words and phrases, as used in this chapter, shall have the meanings ascribed to them by this section:

*Applicant* means a person or entity that has applied for an account with the Town of Little Elm, Texas Customer Service Department.

*Customer* means a person or entity that has an account with the Town of Little Elm, Texas, Water Utility Department for the supply of water, wastewater, water reuse or other service and/or has made application, whether written or oral, to the customer service department for water, wastewater, water

reuse or other service, and such service has been provided or made available by the town at the location specified in the oral or written application for service.

*Customer service department* shall mean the department responsible for establishing customer service accounts, monthly billing for services, and handling of customer complaints and requests for adjustments.

*Special fund* shall mean a governmental fund type used to account for the proceeds of specific revenue sources (other than for major capital projects) that are restricted to expenditures for specified purposes, or a group of assets and liabilities accounted for in an operating fund whose use is subject to constraints that are imposed by law, creditors, or merely sound financial policy.

*Water utilities* shall mean the supply by the town of potable water, water reuse, wastewater contribution, and/or other related service.

*Water utility department* shall mean the department responsible for the provision of water, wastewater, water reuse and/or other related water services.

*Water utility services* shall mean water, sewer, water reuse and/or all other related water utility services provided by the town.

(Ord. No. 820, § 1, 2-20-2007)

Sec. 102-137. - Creation of water utility and customer service departments.

- (a) A water utility department is hereby created to be responsible for the water utility services of the town. The head of the water utility department shall be the public works director.
- (b) A customer service department is hereby created to be responsible for all billing and collection of fees related to water utility services and any other services that may be assigned. The head of the customer service department shall be the director of finance.

(Ord. No. 820, § 2, 2-20-2007)

Sec. 102-138. - Rates, minimum charges, failure to pay.

- (a) *Utility rates.* The rates, criteria and related charges, established from time to time by separate ordinance, shall be collected for water utility services furnished by the town, through the customer service department.
- (b) *Minimum bill charge.* There is established a minimum monthly charge for all services received in accordance with the rates established by the town through a separate ordinance. Any customer who is currently receiving or may hereafter request and receive water utility service at his/her premises through two or more meters shall be charged no less than the monthly minimum rate, as adopted by separate ordinance, for each service connected to his/her premises whether active or inactive. Such charges shall continue in force and effect and be collected as long as the customer receives any water utility service at his/her premises, provided, that such customer may at his/her option request the removal of one or more such meters. If any customer requests the removal of any meter used primarily for seasonal purposes including but not limited to lawn sprinkling, watering, or pool usage, and subsequently requests that such service be restored within a 12-month period, he/she shall pay a reconnection charge.
- (c) *Failure to pay.* Failure to pay the charges for water utility services shall authorize the town to discontinue all services to the premises and such services shall be subject to the terms and provisions pertaining to delinquency and failure to pay for water utility services.

(Ord. No. 820, § 3, 2-20-2007)

Sec. 102-139. - Joint users; moving to different locations.

- (a) *Joint users.* Where water is supplied to more than one family or occupant through a single service the town will not undertake to apportion the charges for such use of water among the owners, occupants or families; but the bill for such use of water will be charged against the owner or occupant in whose name the account stands. Unpaid bills may be cause for refusing service to the same account holder until the amount past due is paid.
- (b) *Customer relocation.* Any customer who is liable to the town for past due water utility services at one or more address, and, is thereafter located using water at another address, shall not be eligible to receive water utility services at a new address until such past due amounts have been paid. In the event a customer receives water utility services and there exists any amounts due for service furnished at any previous location, such amounts shall be transferred to the customer's account at the new location and the water utility services shall be discontinued at the new location until all past due amounts are paid.
- (c) *Customer responsible for all usage.* Should any person move into any premises supplied with water from the town and use water utility services, without making an application and paying any applicable costs or fees in the manner provided herein, then such person(s) shall become responsible for all water used and/or sewer services utilized from the date of the last reading previous and the failure to pay same shall be cause for disconnecting such service until the amount due is paid.

(Ord. No. 820, § 4, 2-20-2007)

Sec. 102-140. - Determination of size and type of meter service.

The public works director, or his/her designee, shall determine the size, type and number of meters and services to be installed and/or used for any water utility service to any building or division of space in a building or property subdivision.

(Ord. No. 820, § 5, 2-20-2007)

Sec. 102-141. - Bills; delinquency; payment extensions; service calls; due process.

- (a) *Payment generally.* All charges for water utility service shall be paid on a monthly basis. The due date is printed on the face of the water bill. Payments must be received prior to 11:59 p.m. on the due date to avoid a penalty.
- (b) *Delinquent accounts and penalty.* Accounts are delinquent if payment is not received by the due date and a delinquent account will be levied a ten percent penalty on the entire amount due. If full payment is not received within ten days after the due date, the water utility service will be disconnected and a reconnect fee will be assessed before service will be restored.
- (c) *Failure to receive bill.* All bills shall be considered rendered when sent to the customer by the customer service department. Failure to receive any such bill by a customer shall not relieve such customer of the duty and necessity of paying for water utility services furnished under the terms of this article.
- (d) *Due date extension.* It shall be the duty of the director of finance, or his/her designee, upon the failure or refusal of any person to promptly pay within ten days from date of delinquency, any charge or charges levied and assessed under the terms of this chapter, to discontinue such water utility services and refuse further service to such person until such charges are paid or satisfactory payment arrangements have been made; provided, however, upon request by the customer the director of finance or his/her designee may extend the time for payment for an additional period before discontinuing such water utility services. No customer shall be allowed more than one extension for payment within a six-month period, unless otherwise approved by the director of finance.

- (e) *Service call charges.* The customer shall be responsible for the payment of a charge related to separate service calls for connection and/or disconnection of service. The charges to be assessed for service calls related to the turning-on or cutting-off of any water utility service shall be established from time-to-time by separate ordinance.
- (f) *Customer entitled to due process.* Before a customer's water utility services shall be cut-off for failure to pay, the customer shall be entitled to adequate notice and due process procedures. Due process shall include, but not be limited to, (1) a written notice delivered to the customer's residence in a timely manner that shall state the reasons for such discontinuance of service and the date for which services shall be discontinued; and (2) an opportunity for an informal hearing before service is so terminated by the town. The opportunity for hearing shall be an informal consultation with the town manager, or his/her designee; whom by reason of this article shall have the full authority to resolve the dispute and rescind the discontinuance of service if it is determined there is a fair and justifiable reason for rescinding. The burden for requesting a hearing shall be on the customer. At no time shall the town, or its representatives, be permitted to arbitrarily withhold or discontinue essential water utility services without a valid reason.

(Ord. No. 820, § 6, 2-20-2007)

Sec. 102-142. - Meters to be read monthly; estimated water usage when meters cannot be read.

- (a) *Meter reads.* All meters, as nearly as possible, shall be read once a month and bills rendered by the customer service department accordingly.
- (b) *Estimated consumption.* An estimate of the quantity of water delivered to the premises shall be made under any of the following circumstances:
  - (1) *Obstruction of meter.* The meter reader is unable to procure a reading of the meter because access to the meter is obstructed in any manner, or entrance to the premises is made hazardous by an animal or otherwise.
  - (2) *Failure to locate.* The meter cannot be located by the meter reader.
  - (3) *Malfunction.* The meter does not properly function or is otherwise defective.
  - (4) *Adverse conditions.* Adverse weather or acts of God prevent the reading of the meter.
  - (5) *No meter.* For whatever reason, no functioning meter is in place at the premises.
  - (6) *Delayed read.* A meter reading is not available to the customer service department at the time of preparing the monthly bill for the customer for any other reason.
- (c) *Estimate on past consumption.* An estimate shall be based on past consumption experience at the premises adjusted for seasonal consumption or in the event of no past experience then upon consumption of the same class under similar conditions.
- (d) *Customer responsible for bill.* The customer shall pay the amount of the bill rendered; except, that in the event the customer demonstrates that an estimated bill is excessive, then the customer shall pay an amount based on a revised estimate made by the customer service department or on the actual meter reading.
- (e) *Credits.* Billing of credits or debits shall be made to the customer upon the final determination of consumption based on actual meter readings or otherwise determined in accordance with another subsection above if actual meter readings are not available.
- (f) *Interruption of service.* If a customer requests discontinuance of service at an address where he has had uninterrupted service for a period of time so short that the only bill for service rendered would be the final bill, such billing will be computed as though service had been furnished for a full billing month.

(Ord. No. 820, § 7, 2-20-2007)

Sec. 102-143. - Application for water utility service required; proof of tenancy.

- (a) *Application required.* Any owner or occupant of property desiring water service shall make application for such service. An owner or applicant shall not use any water utility service, nor shall such service be rendered until an application and any necessary fees are paid to and received by the customer service department. Applicant agrees upon completion of application process and payment of application fee, the applicant is responsible to pay the water utilities department all charges for services contained therein, including pro rata charges, if any, and further agree that applicant will abide by all provisions of this article and other ordinances of the town relating to such service. No permit for any connection with the water utility system shall be issued until an application is approved by the customer service department.
- (b) *Electronic submittal of application.* Application for water utility service may be initiated by telephone, facsimile, e-mail, or other electronic means.
- (c) *Discontinuance of service.* If the application, together with the required application fee and deposit, is not received by the customer service department within the time established by the director of finance from the date application for service was made by telephone, facsimile, e-mail, or other electronic means, service covered by the application shall be discontinued until application and deposit are made in person by the applicant. A charge, as established by separate ordinance, shall be assessed for a service call to cut-off the customer's water utility service.
- (d) *Proof of tenancy.* An applicant or customer shall, upon request of the customer service department, furnish proper identification, together with all information regarding the service address, including ownership, tenancy, or relationship of applicant or customer to other present or former customers of the water utility department at the service address. In the event such information is not furnished, service to the applicant and/or the service address shall be denied or discontinued. A charge, as established by separate ordinance, shall be assessed for a service call to cut-off the customer's water utility service for failure to submit required information.
- (e) *False statement.* No person or business shall make a false or misleading statement in an application to the town for water utility services and upon a finding of a misrepresentation in an application; the town shall discontinue water services in addition to any other remedies.

(Ord. No. 820, § 8, 2-20-2007)

Sec. 102-144. - Residence or place of business for which application accepted deemed bona fide address of customer; penalty.

- (a) *Bona fide address of customer.* Where an application is accepted for water utility service, for business or residential purposes, it shall be considered the bona fide residence or business of the customer and should water utility services be discontinued for nonpayment of bills or for other infractions of this article, no new application will be accepted from the owner, agent or any other person to continue service in such place under any other name, so long as such place is occupied by the original customer as the bona fide residence or place of business of same, until after all bills and penalties, damage to waterworks equipment and other service charges have been paid in full or some form of agreement has been reached.
- (b) *Tenant responsibility of applicant.* Should water utility services be furnished by an applicant for water utility service to his/her tenant, it shall be considered additional service to the original applicant for water utility service and the provisions hereof apply in the same manner.

(Ord. No. 820, § 9, 2-20-2007)

Sec. 102-145. - Utility deposit required; increase in deposit; accounting for deposits; bankruptcies.

- (a) *Customer deposit required.* A deposit for water utility services shall be made with the customer service department of the town at the time of making application for water utility services, the minimum amount of which shall be established by separate ordinance for each customer class.
- (b) *Request for additional deposit.* If a customer's utility service is discontinued for non-payment, pursuant to the provisions of this article, three or more times in any consecutive 12-month period, the director of finance, or his/her designee, shall require from the customer additional security in the amount of twice the normal deposit.
- (c) *Accounting for deposits.* Any and all sums of money collected, or hereafter collected as a cash deposit securing the town against losses that may be sustained when a customer discontinues his/her water utility service shall be deposited in a special fund, or accounted for as restricted, to be used for the payment or adjustment of final amounts due the town for water utility service when an account is being closed; provided, however, that such funds or deposits may be invested by the town or used as working capital for the making of permanent improvements in the water utility department, but such funds shall never be reduced to a point where the current adjustments or closing of accounts cannot be met. The director of finance, or his/her designee, shall keep an accurate record of depositors and amounts deposited; he/she shall make or cause to be made a monthly statement of deposits received, refunds made, and the monthly balance of cash on hand and on deposit to the credit of the special fund for deposits.
- (d) *Effect of bankruptcy.* If any customer becomes insolvent or bankrupt, or makes an assignment for the benefit of his/her creditors, the town shall apply the customer's deposit to offset his/her outstanding bill. In the event a customer has a past due balance or is not current on his/her bill, upon receipt of official notice of bankruptcy, the customer's account shall be closed and any deposit applied to the outstanding balance, all amounts remaining on the account shall be held in abeyance until the bankruptcy is dissolved. If the customer's account is closed due to bankruptcy, the customer may apply for a new water utility service account while said bankruptcy is pending; however the customer service department shall only initiate a new service account for the customer upon payment of a new deposit.
- (e) *Transfer of deposit.* Any deposit made under the provisions of this section for water utility service at the address shown on the original application, may be transferred by the director of finance, or his/her designee, to any other address within the corporate town limits at the written or oral request of the depositor.

(Ord. No. 820, § 10, 2-20-2007)

Sec. 102-146. - Water used in construction charged to property owner; non-payment of charges.

- (a) *Construction utility charges.* Where water utility service is used in the construction or repair of property, such water utility service shall be charged against the owner of the property. Where such water utility service has not been turned on by the water utility department for use on the premises, such water utility service shall not be turned-on until all appropriate charges are paid. Where water utility service is already turned on, and where such charges are not paid, it shall be turned-off in the same manner as it may be turned off for any other delinquency in payment.
- (b) *Additional use after service discontinued.* Where water utility service has been discontinued by the water utility department and it is subsequently found that additional water utility service has been used, and where application has not been made, the service shall be charged against the previous account holder and/or owner of the property and service shall not be turned on for a new applicant until payment is made or agreed to for the water utility service used. Where it is determined that the property was occupied without application, the water used may be charged to the new occupant.

(Ord. No. 820, § 11, 2-20-2007)



Sec. 102-147. - Permission of consumer to be secured before using water; Notice to department; use before filing of application for service.

Where water utility service is furnished to any premises through a meter, it shall hereafter be unlawful for any person engaged in any work of public improvement, or work of any character, or for any other reason, to take water from any hydrant or water connection without first having secured the consent of, and made arrangements with, the person to whom the water is being furnished on such premises by the town, and in each instance that water is so used, the person using the same shall immediately give written notice thereof to the town stating therein the premises from which water utility service was secured and the approximate amount used. It shall be unlawful for any person to use water from any service connection until application for such service shall have been filed as hereinabove provided.

(Ord. No. 820, § 12, 2-20-2007)

Sec. 102-148. - Necessity for notice to discontinue service.

All rates and charges for service to customer's premises shall accrue and be charged against the customer's account until such time as written or oral notice, given by customer or by his duly authorized agent, to discontinue all service to consumer's premises, is received by the customer service department; except that where service is supplied through more than one meter to customer at the same premises, customer may, upon written notice to the customer service department, permanently discontinue the service through one of the meters and thereafter be billed on the basis of the remaining services and meters. Upon receipt of written notice of such permanent discontinuance, the water utilities department will remove the meter and service. Such combining of service shall comply with the other provisions of this article. Any service so discontinued will be restored only at the expense of the customer.

(Ord. No. 820, § 13, 2-20-2007)

Sec. 102-149. - Owners of property to give notice of vacancy.

An account holder and/or owner of property to which water utility service is furnished by the water utilities department shall give notice on the next business day when the property becomes vacant or when vacant property becomes occupied by a new owner or tenant. Any water utility services provided shall remain the responsibility of the account holder until such time as a new account is established at the address. Failure to pay for water utility services may result in termination of service or as otherwise provided for herein.

(Ord. No. 820, § 14, 2-20-2007)

Sec. 102-150. - Unlawful use of water; prima facie evidence.

(a) No person shall:

- (1) *Disrupt service.* Prevent water from passing through a meter which is used by the water utilities department to supply water to a customer;
- (2) *Meter tampering.* Prevent a meter used by the water utilities department from registering the quantity of water supplied to a customer, or interfere with the proper and accurate registration upon a meter used by the water utilities department of the amount of water supplied to a customers;
- (3) *Line tampering.* Divert water, by the use of any device, from a pipe or pipes of the water utilities department;

- (4) *Refuse to return meter.* Refuse to deliver any meter or other appliance of the water utilities department, in his/her possession, custody, or control, to the water utilities department upon request of the public works director, or his/her designee.
  - (5) *Illegal tap.* Tap or connect with the water utility department of the town, or turn on the water from such waterworks, without first having obtained permission to do so from the water utility department, or interfere with any water meter, service, main, standpipe or any other water utility property.
- (b) Prima facie evidence of unlawful use. The existence of a device, pipe, or meter being used for any of the unlawful purposes stated in subsection (a) of this section, shall constitute prima facie evidence of knowledge of the unlawful use thereof, on the part of the person owning or having control of the room, building, place, or premises where such device, pipe, or meter has been used and on the part of the person who benefits by the failure of the water to be properly metered.

(Ord. No. 820, § 15, 2-20-2007)

Sec. 102-151. - Water utility service connections.

- (a) *Installation of service connection.* The water utilities department shall install and maintain all water utility service connections in the streets and alleys or easements within the town, and shall charge for the installation and maintenance of all such service connections a sum sufficient to cover the average cost thereof, such sum to be determined and collected by the customer service department at rates established by separate ordinance.
- (b) *Tap fee.* The tap fees as established by separate ordinance shall be in addition to pro rata cost charges or any other charges provided by ordinance.
- (c) *Deposit for larger service lines.* For services large than two inches in diameter, the water utilities department will furnish an estimate of cost to all applicants for service connections larger than two inches in diameter and all such applicants will make a deposit of the estimated amount before the water utilities department will issue a permit for the installation of such connection. The final cost will be adjusted upon completion of the work. Should the final cost of the work exceed the amount deposited, the water utilities department will furnish the party or parties making such deposit a statement showing the amount of such excess, and such statement will constitute the notice that the excess amount is due. The public works director at his/her option may refuse or discontinue water service to the property until full payment has been made for the work performed.
- (d) *Refund of deposit.* In the event, upon completion of the work for which deposit has been made, final cost is less than the amount of estimate or deposit, a refund of the amount of overpayment will be immediately made to the party or parties from whom the deposit was received.
- (e) *Incidental costs.* The estimate of costs of all service connections larger than two inches in diameter shall include all costs incident to making the installation of the service connection required, including the necessary repairs to pavement of any kind or character involved in making the service connection. The water utilities department shall make the necessary pavement repairs, the cost of same to be included in the cost figures as stated above.
- (f) *Responsibility for service line.* The customer shall maintain, at its own expense, and at the original sizes, all services from the meter box to the service location structure, i.e. the house or business, excluding the meter connections within the meter box.
- (g) *Owner/developer responsible for grading.* It is further provided that in no event shall the town be required, where payment of the estimated cost is made, to make any surveys, street grading or staking off on the ground of the applicant or applicant's subdivision for the purpose of making his installation, but all such work shall be done by the developer at his own cost and expense and shall be done within the parameters of the town ordinances to the satisfaction of the public works director.

- (h) *Responsibility to meet platting requirements.* It shall be unlawful to service or connect any lot, tract or plat of land, or any part thereof, or for the use of the owner or purchaser of the land, or any part thereof, with a water connection unless and until such plan, plot or re-plat of such lot or tract of land shall conform to the platting requirements of the town and shall have been approved by the city council.

(Ord. No. 820, § 16, 2-20-2007)

Sec. 102-152. - Private water mains or systems.

- (a) *Service lines.* All water pipes laid in streets, alleys or public thoroughfares within the town shall be dedicated to the town and upon acceptance become the property of the town. All water systems laid within the town and connected with the water utilities department shall be constructed under the supervision of and in accordance with plans and specifications approved by the public works director, or his/her designee, of the water utilities departments.
- (b) *Acceptance of water mains and service lines.* The water utilities department may decline to accept any application for water utility service inside the town, if upon examination, the water mains, service pipes, valves, fire hydrants or other equipment are of such quality or size, or are installed in such manner, that they do not comply with the water utilities department standards and specifications.
- (c) *Master meters.* Where water is furnished by the water utilities department through a master meter to serve private water systems, all water meters set and connected therewith to serve individual customers, whether or not they are to be read and billed by the owner of such water system, shall be installed by licensed plumbers upon permits issued by the building inspection department in accordance with the rules and regulations governing any other service in the water utility system.

(Ord. No. 820, § 17, 2-20-2007)

Sec. 102-153. - Control of meters and water utility equipment generally.

All meters, curb stops, valves, fixtures, meter boxes and appurtenances thereto, connected or used by the town water utility system, including those furnished at the expense of the customers or property owners, shall remain under the direct control of the water utility department. No person, unless authorized by the water utility department, shall connect, disconnect, alter, move, or tamper with any such equipment.

(Ord. No. 820, § 18, 2-20-2007)

Sec. 102-154. - Obstruction of access to systems generally.

No person shall place upon or about any fire hydrant, valve, manhole, curb stop, meter, or meter box, connected with any water pipe of the water utility department, whether located on public or private property, any object, debris, or structure, which will prevent free access to the same. Employees of the town shall have free and unobstructed access at all times to meters and other property of the water utility department wherever located. No person shall deny any town employee access to any of said property or create a hazardous condition in or around such property, or place an animal at or near said property which will interfere with free access thereto. No person shall interfere with the performance of any lawful duty of any town employee by obstructing said employee in the discharge of his/her duties, either physically or by gestures, threats, or otherwise.

(Ord. No. 820, § 19, 2-20-2007)

Sec. 102-155. - Destroying or defacing equipment.

It shall be a violation of this article for any person to unlawfully, willfully or maliciously injures, defaces or destroys any reservoir, machinery, pipes, hydrants, meters, meter boxes, lids or other fixtures, properties or supplies belonging to the water utility department, or who uses or takes from the water utility department any water supplies or property except in accordance with the rules and regulations stated herein.

(Ord. No. 820, § 20, 2-20-2007)

Sec. 102-156. - Grounding electrical system to water system prohibited.

- (a) *Metallic connections prohibited.* It shall be unlawful for any person to make or cause or permit to be made any metallic connections, either directly or indirectly, with the water mains, laterals, supply or service pipes, of the water utility department of the town, or any private pipes, mains or laterals which are connected to, or with any such water mains, laterals, supply or service pipes of the water utility department of the town, whereby any electrical current shall be communicated to or transmitted along or through such water mains, laterals, supply or service pipes of the water utility department of the town.
- (b) *Transmission of electric current prohibited.* It shall be unlawful for any person to communicate any current of electricity to, or transmit the same, along or through, or cause or permit any current of electricity to be communicated to or transmitted along or through any water main, lateral, pipes or wires or any metal of any sort that is a conductor of electricity that shall hereafter be metallically connected, bonded or joined to or with any water mains, laterals, supply or service pipes of the waterworks department of the town in violation of this section.

(Ord. No. 820, § 21, 2-20-2007)

Sec. 102-157. - Repairing meters; testing meters.

- (a) *Repair of meters.* All water meters furnished by the water utility department shall remain at all times the property of the town, and shall be maintained and repaired by the town. When replacements, repairs, or adjustments of any meter are rendered necessary by the act, neglect or carelessness of the owner or occupant of any premises, any expense caused to the water utility department thereby shall be charged against and collected from the owner of the premises, and if not paid, water utility services shall be discontinued.
- (b) *Testing of meters.* When any customer is of the opinion that the meter through which their water is supplied is incorrect for any reason, he/she may request to have the meter examined and tested. It is provided further that the public works director of the water utility department may require such consumer to pay a fee, as established by separate ordinance, for the removal and testing of the meter. Whenever a meter is found to be out of order and not registering correctly, the customer shall be charged with an average daily consumption as shown by the meter registering correctly, but not to exceed three months back.

(Ord. No. 820, § 22, 2-20-2007)

Sec. 102-158. - Use of water from fire hydrants.

- (a) *Fire hydrants.* Fire hydrants are provided for the primary purpose to extinguish fires and are to be used and opened only by the water utility department or fire department, or such person as may be given written authority by the water utility department.
- (b) *Use of fire hydrant.* To insure the safety and protection of fire hydrants, any person authorized to open fire hydrants shall use only an approved spanner wrench and shall replace the caps on the outlets when the same are not in use; failure to do so shall be sufficient cause to prohibit further use of the hydrants and to refuse to grant subsequent permits for the use of fire hydrants.

- (c) *Permit required.* It shall be unlawful for any person to connect to, tamper with or use any water from any fire hydrant without a written permit from the water utility department.
- (d) *Contractor deposit.* The water utility department may require a deposit from contractors for use of water from fire hydrants, such deposit to be of such amount as may be fixed by the water utility department.

(Ord. No. 820, § 23, 2-20-2007)

Sec. 102-159. - Work to be done by plumbers; duties; unauthorized changes or connections.

- (a) *Plumber required.* It shall be unlawful for anyone other than a licensed plumber to connect any water service on the property or outlet side of the meter box. Whenever such plumber shall use town water in testing pipes or repairing fixtures he/she shall, before leaving the premises, turn the curb stop to the position he/she found it when he/she first opened the meter box, and it shall be the duty of such plumber to notify the water utility department immediately of every instance in which he/she finds or has reason to believe that anyone has tampered with any meter box, meter or other water utility equipment.
- (b) *Unauthorized connections.* In case any unauthorized connections are found to have been made, fixtures added and no permit taken for same, water shall be disconnected from such premises until corrections have been made and all permit fees have been paid.
- (c) *Trenches, ditches, excavations.* It shall be unlawful for any person to leave any trench, ditch or excavation on any public right-of-way, such as any sidewalk, street, alley, parkway or any other public way, left open for inspection, unless the same is properly barricaded and lighted, and when the work has been inspected and approved by the town, such plumber shall backfill and securely tamp any such trench, ditch or excavation so that the public right-of-way shall be safe for both pedestrian and vehicular travel. Failure to comply with this provision shall render such individual liable for any damage or injury to person or property resulting there from.

(Ord. No. 820, § 24, 2-20-2007)

Sec. 102-160. - Installation of stop valve.

Customers shall install an approved "stop valve" inside the property line, at a location accessible in case of emergency or for normal maintenance, and shall not use the curb stop at meter in lieu thereof.

(Ord. No. 820, § 25, 2-20-2007)

Sec. 102-161. - Shutting-off and turning-on of water.

- (a) The water utility department may, at any time, order the water cut-off to any premises connected to the town mains for repairs, extensions or other necessary purposes. The water utility department will use reasonable efforts to notify customers in advance unless an emergency exists.
- (b) The water utility department will not turn a customer's water on unless there is an occupant present at the residence. The water utility department will make its best efforts to contact the customer in advance of the time scheduled to turn the water on.

(Ord. No. 820, § 26, 2-20-2007)

Sec. 102-162. - Exposing meters or fire hydrants to damage; moving meters or hydrants.

It shall be unlawful to build any improvement and/or driveways, etc., in such manner as to expose any meter or fire hydrant to damage from traffic. Whenever the property owner requests the moving of any meter or fire hydrant, such cost shall be at the expense of the requestor. In such case the property owner or contractor shall make application to the water utility department to have such structure moved. Upon approval by the water utility department, the property owner or contractor shall be furnished with an estimate of the cost of such moving. Upon deposit of such estimated sum, by the property owner or contractor, the water utility department shall proceed to make the desired change in location of the structure.

(Ord. No. 820, § 27, 2-20-2007)

Sec. 102-163. - Inspections; right of access for town employees; identification badges and credentials of employees.

- (a) *Right of access.* Any such officer, inspector, foreman or authorized employee of the water utility department shall, upon presentation of his/her identification badge or other credentials provided for in the next preceding paragraph, have free access at all reasonable hours to the exterior of any premises or any public premises supplied with the water utility services for the purpose of making an inspection thereof or for reading meters.
- (b) *Failure to comply.* In case any such authorized employee shall be hindered or prevented in making such examination, the water utility department may cause the water to be turned-off from such premises without notice to such owner or occupant of such premises. In addition, an authorized employee of the town shall make inspections of all service pipes, connections, utilities or fixtures installed for the purpose of receiving water utility services, and in event same shall not be approved, the water utility department shall refuse or discontinue water utility service to such premises.

(Ord. No. 820, § 28, 2-20-2007)

Sec. 102-164. - Notification of water utility department of intention to construct sidewalk; access covers and meter boxes not to be covered.

- (a) *Notice required.* Before any person shall construct any sidewalk or concrete driveway on any street in the town, he/she shall give the water utility department notice in writing at least ten days before such work of construction is started, stating where such sidewalk or driveway is to be constructed, and when work thereupon will begin, in order that the water utility department may have ample opportunity to rearrange the water utility service pipes and to set meter boxes and other water utility service connections and accessories where necessary.
- (b) *Covering of access boxes and meter box prohibited.* It shall be unlawful for anyone constructing a sidewalk in the town to construct the same over and above any manhole cover, clean-out, valve box or meter box of the water utility department; all such manholes covers, clean-out, valve boxes or meter boxes shall be left free and open and accessible from the top of such sidewalk.

(Ord. No. 820, § 29, 2-20-2007)

Sec. 102-165. - Inspection and verification of meter reading; adjustment of customer's utility account.

- (a) *Inspection of meter.* In any case where there appears to be a discrepancy in the amount of a water bill, or in the reading of a meter, a town employee will be sent to verify and inspect the reading of the meter.
- (b) *Charge for inspection.* The water utility department will inspect the meter at no charge twice per year upon customer request. Additional inspections requested by a customer shall be paid by the customer, the fee to be established by separate ordinance.

- (c) *Water charge adjustments.* The finance director or his designee may approve adjustment of a customer's water usage charge in appropriate cases subject to the following conditions:
- (1) The customer must request an adjustment in writing within 14 days from the date the water bill (to which the adjustment will be made) was issued.
  - (2) The customer must forward a copy of a licensed plumber's invoice which includes the customer's name, service address, when the repair was made, and a brief description of the repair, or upon sworn affidavit of the customer.
  - (3) The customer must verify with the town that the leak was permanently repaired.
  - (4) The leak must be in the customer's supply line, which is the portion of water supply from the meter to the point of use. Adjustments to the water usage charge will be based on "historic usage" of the customer, which shall reflect seasonal or other historical patterns. If the customer does not have at least four previous bills to establish historical usage, then the adjustment will be based on available data.
  - (5) At no time will a customer receive more than one adjustment for leaks, repairs other causes per 12-month period. The town will credit the customer's account for 50 percent of the excess water usage charge based on the usage (consumption) history and at current rates and charges in force. In no case shall the finance director or designee approve an adjustment or proration of the fixed minimum water or sewer charge.

(Ord. No. 820, § 30, 2-20-2007; Ord. No. 1081, § 1, 10-18-2011)

Sec. 102-166. - Liability for damage.

The town shall not be responsible or held liable for any damage to customer's property including, but not limited to, damage as a result of open pipes or fixtures, water breaks, or for any damage resulting from the water supply being cut-off, interrupted or turned-on or being insufficient, or for any damage resulting from any condition of the water or any soluble or insoluble substance that may mix with, or be in the water as delivered to the customer.

(Ord. No. 820, § 31, 2-20-2007)

Sec. 102-167. - Water rates to remain in force; special contracts.

The water utility rates adopted by separate ordinance shall be controlling and remain in effect until amended by a later ordinance, but the town council may grant special contracts for the supply of water utility services, if deemed necessary.

(Ord. No. 820, § 32, 2-20-2007)

Sec. 102-168. - Disconnection for violation of related provisions of ordinance, permitting water to run from the premises.

- (a) *Disconnection of service.* The public works director shall be authorized to disconnect the water utility service from the premises of any person found violating any of the terms and provisions of this chapter with reference to the installation or use of water utility services.
- (b) *Service discontinued for running water.* Upon the complaint of any person that water is running from any premises as a result of broken, damaged, open or disconnected lines or fixtures, the public works director may, upon investigation, cut-off service to the premises from which said water utility service is originating, and service shall not be restored until the owner or person responsible for said premises has corrected the condition causing said water to flow.

(Ord. No. 820, § 33, 2-20-2007)

Sec. 102-169. - Repeal of conflicting ordinances.

All ordinances or parts of ordinances in force when the provisions of this article become effective, which are inconsistent or in conflict with the terms or provisions contained in this article, are hereby repealed to the extent of any such conflict.

(Ord. No. 820, § 34, 2-20-2007)

Sec. 102-170. - Penalty for violation.

Failure to comply with the foregoing terms and provisions of this article, may result in one or more of the following:

- (1) *Deposit forfeiture and discontinuance of service.* Forfeiture of any and all deposits, removal of meters, and discontinuance of water service by the town. A \$500.00 deposit may be required before the town will restore service; or
- (2) *Class C misdemeanor.* An offense under this article may be deemed a Class C misdemeanor punishable by a fine of up to \$2,000.00.

(Ord. No. 820, § 35, 2-20-2007)

Secs. 102-171—102-212. - Reserved.

ARTICLE IV. - DISCHARGE OF INDUSTRIAL WASTES<sup>41</sup>

Footnotes:

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**State Law reference**— Local government authority to control waste discharges and require pretreatment, V.T.C.A., Water Code § 26.176.

Sec. 102-213. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approving authority* means the mayor or his duly authorized representative.

*B.O.D. (Biochemical Oxygen Demand)* means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees Centigrade.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal (also called house lateral and house connection).

*C.O.D. (Chemical Oxygen Demand)* means measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen



consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

*Control manhole* means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

*Control point* means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

*Garbage* means animal and vegetable wastes and residue from preparation, cooking, and dispensing of food; and from the handling, processing, storage and sale of food products and produce.

*Industrial waste* means waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

*Industrial waste charge* means the charge made on those persons who discharge industrial wastes into the town's sewerage system.

*Major industry* means an industry discharging an average daily flow equal to ten percent of the average daily flow at the wastewater treatment plant or discharging at a rate that if continued for 24 hours would equal ten percent of the average daily flow at the wastewater treatment plant.

*Milligrams per liter (mg/l)* means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Natural outlet* means any outlet into a watercourse, ditch, lake, or other body of surface water or groundwater.

*Normal domestic wastewater* means wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 250 mg/l and BOD is not more than 200 mg/l.

*Overload* means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

*Person* includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership association, and any other legal entity.

*pH* means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

*Public sewer* means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the Town of Little Elm.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater, and other unpolluted wastes are not intentionally passed.

*Slug* means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation.

*Standard methods* means 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 Pollution Control Federation.

*Storm sewer* means a public sewer which carries stormwater and surface water and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

*Stormwater* means rainfall or any other forms of precipitation.

*Superintendent* means the water and wastewater superintendent of the Town of Little Elm, or his duly authorized deputy, agent, or representative.

*Suspended solids* means 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.

*To discharge* includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

*Town* means the Town of Little Elm, Texas, or any authorized person acting in its behalf.

*Trap* means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

*Unpolluted wastewater* means water containing:

- (1) No free or emulsified grease or oil;
- (2) No acids or alkalis;
- (3) No phenols or other substances producing taste or odor in receiving water;
- (4) No toxic or poisonous substances in suspension, colloidal state, or solution;
- (5) No noxious or otherwise obnoxious or odorous gases;
- (6) Not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the Texas Water Quality Board; and
- (7) Color not exceeding 50 units as measured by the Platinum-Cobalt method of determination as specified in Standard Methods.

*Waste* means rejected, unutilized or superfluous substances in liquid, gaseous, or solid from resulting from domestic, agricultural, or industrial activities.

*Wastewater* means a combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any groundwater, surface water, and stormwater that may be present.

*Wastewater facilities* includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes.

*Wastewater service charge* means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

*Wastewater treatment plant* means any town-owned facilities, devices, and structures used for receiving, processing, and treating wastewater, industrial waste, and sludges from the sanitary sewers.

*Watercourse* means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 79, § 1, 2-17-1977)

Sec. 102-214. - Prohibited discharges.

- (a) No person may discharge to public sewers any waste which by itself or by interaction with other wastes may:
  - (1) Injure or interfere with wastewater treatment processes or facilities;
  - (2) Constitute a hazard to humans or animals; or
  - (3) Create a hazard in receiving waters of the wastewater treatment plant effluent.
- (b) All discharges shall conform to requirements of this article.

(Ord. No. 79, § 2, 2-17-1977)

Sec. 102-215. - Chemical discharges.

- (a) No discharge to public sewers may contain:
  - (1) Cyanide greater than 1.0 mg/l;
  - (2) Fluoride other than that contained in the public water supply;
  - (3) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or
  - (4) Substances causing an excessive chemical oxygen demand (C.O.D.).
- (b) No waste or wastewater discharged to public waters may contain:
  - (1) Strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;
  - (2) Fats, wax, grease or oils, whether emulsified or not in excess of 100 mg/l containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius);
  - (3) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials; or
  - (4) Obnoxious, toxic, or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of subsection (1) of this section.
- (c) No waste, wastewater, or other substances may be discharged into public sewers which has a pH lower than 6.5 or higher than 8.5, or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities.
- (d) All waste, wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and-odor producing substances, shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.

(Ord. No. 79, § 3, 2-17-1977)

Sec. 102-216. - Heavy metals and toxic materials.

- (a) No discharges may contain concentrations of heavy metals greater than amounts specified in subsection (b) of this section.
- (b) The maximum allowable concentrations of heavy metals stated in terms of milligrams per liter (mg/l), determined on the basis of individual sampling in accordance with "Standard Methods" are:
  - (1) Arsenic, 0.050 mg/l;
  - (2) Barium, 5.000 mg/l;
  - (3) Boron, 1.000 mg/l;
  - (4) Cadmium, 0.020 mg/l;
  - (5) Chromium (Total), 5.000 mg/l;
  - (6) Copper, 1.000 mg/l;
  - (7) Lead, 0.100 mg/l;
  - (8) Manganese, 1.000 mg/l;
  - (9) Mercury, 0.005 mg/l;

- (10) Nickel, 1.000 mg/l;
  - (11) Selenium, 0.020 mg/l;
  - (12) Silver, 0.100 mg/l;
  - (13) Zinc, 5.000 mg/l.
- (c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.
- (d) Prohibited heavy metals and toxic materials include, but are not limited to:
- (1) Antimony;
  - (2) Beryllium;
  - (3) Bismuth;
  - (4) Cobalt;
  - (5) Molybdenum;
  - (6) Uranyl ion;
  - (7) Rhenium;
  - (8) Strontium;
  - (9) Tellurium;
  - (10) Herbicides;
  - (11) Fungicides; and
  - (12) Pesticides.

(Ord. No. 79, § 4, 2-17-1977)

Sec. 102-217. - Garbage.

- (a) No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimension are prohibited.
- (b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

(Ord. No. 79, § 5, 2-17-1977)

Sec. 102-218. - Stormwater and other unpolluted drainage.

- (a) No person may discharge to public sanitary sewers:
  - (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
  - (2) Unpolluted cooling water;
  - (3) Unpolluted industrial process waters; or
  - (4) Other unpolluted drainage.

- (b) New connections from inflow sources into the sanitary sewer system are prohibited. New sewers and connections to the sanitary sewer system of acceptable wastewater must be properly designed and constructed as authorized by the approving authority.
- (c) In compliance with the Texas Water Quality Act and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.

(Ord. No. 79, § 6, 2-17-1977)

Sec. 102-219. - Temperature.

No person may discharge liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.

(Ord. No. 79, § 7, 2-17-1977)

Sec. 102-220. - Radioactive wastes.

- (a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- (b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

(Ord. No. 79, § 8, 2-17-1977)

Sec. 102-221. - Impairment of facilities.

- (a) No person may discharge into public sewers any substance capable of causing:
  - (1) Obstruction to the flow in sewers;
  - (2) Interference with the operation of treatment processes or facilities; or
  - (3) Excessive loading of treatment facilities.
- (b) Discharges prohibited by subsection (a) of this section include, but are not limited to materials which exert or cause concentrations of:
  - (1) Inert suspended solids greater than 250 mg/l, including but not limited to:
    - a. Fuller's earth;
    - b. Lime slurries; and
    - c. Lime residues;
  - (2) Dissolved solids greater than 500 mg/l, not including:
    - a. Sodium chloride; and
    - b. Sodium sulfate;
  - (3) Excessive discoloration including but not limited to:
    - a. Dye wastes; and
    - b. Vegetable tanning solutions; or

- (4) B.O.D., C.O.D., or chlorine demand in excess of normal plant capacity.
- (c) No person may discharge into public sewers any substance that may:
- (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
  - (2) Overload skimming and grease handling equipment;
  - (3) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamendability of the substance to bacterial action; or
  - (4) Deleteriously affect the treatment process due to excessive quantities.
- (d) No person may discharge any substance into public sewers which:
- (1) Is not amenable to treatment or reduction by the processes and facilities employed; or
  - (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (e) The approving authority shall regulate the flow and concentration of slugs when they may:
- (1) Impair the treatment process;
  - (2) Cause damage to collection facilities;
  - (3) Incur treatment costs exceeding those for normal wastewater; or
  - (4) Render the waste unfit for stream disposal or industrial use.
- (f) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size including but not limited to:
- (1) Ashes;
  - (2) Cinders;
  - (3) Sand;
  - (4) Mud;
  - (5) Straw;
  - (6) Shavings;
  - (7) Metal;
  - (8) Glass;
  - (9) Rags;
  - (10) Feathers;
  - (11) Tar;
  - (12) Plastics;
  - (13) Wood;
  - (14) Unground garbage;
  - (15) Whole blood;
  - (16) Paunch manure;
  - (17) Hair and fleshings;
  - (18) Entrails;
  - (19) Paper products, either whole or ground by garbage grinders;
  - (20) Slops;

- (21) Chemical residues;
- (22) Paint residues; or
- (23) Bulk solids.

(Ord. No. 79, § 9, 2-17-1977)

Sec. 102-222. - Compliance with existing authority.

- (a) Unless exception is granted by the approving authority, the public sanitary sewer system shall be used by all persons discharging:
  - (1) Wastewater;
  - (2) Industrial waste;
  - (3) Polluted liquids.
- (b) Unless authorized by the Texas Water Quality Board, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property into or adjacent to any:
  - (1) Natural outlet;
  - (2) Watercourse;
  - (3) Storm sewer;
  - (4) Other area within the jurisdiction of the town.
- (c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

(Ord. No. 79, § 10, 2-17-1977)

Sec. 102-223. - Requirements of approving authority.

- (a) If discharges or proposed discharges to public sewers may:
  - (1) Deleteriously affect wastewater facilities, processes, equipment, or receiving waters;
  - (2) Create a hazard to life or health; or
  - (3) Create a public nuisance; the approving authority shall require:
    - a. Pretreatment to an acceptable condition for discharge to the public sewers;
    - b. Control over the quantities and rates of discharge; and
    - c. Payment to cover the cost of handling and treatment of the wastes.
- (b) The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (a) of this section.
- (c) The approving authority shall reject wastes when:
  - (1) It determines that a discharge or proposed discharge is included under subsection (a) of this section; and
  - (2) The discharger does not meet the requirements of subsection (a) of this section.

(Ord. No. 79, § 11, 2-17-1977)

Sec. 102-224. - Review and approval by approving authority.

- (a) If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.
- (b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances, and other laws.
- (c) Any person responsible for discharges requiring pretreatment, flow-equalizing, or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.

(Ord. No. 79, § 12, 2-17-1977)

Sec. 102-225. - Requirements for traps.

- (a) Discharges requiring a trap include:
  - (1) Grease or waste containing grease in excessive amounts;
  - (2) Oil;
  - (3) Sand;
  - (4) Flammable wastes; and
  - (5) Other harmful ingredients.
- (b) Any person responsible for discharges requiring a trap shall at his own expense and as required by the approving authority:
  - (1) Provide equipment and facilities of a type and capacity approved by the approving authority;
  - (2) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
  - (3) Maintain the trap in effective operating condition.

(Ord. No. 79, § 13, 2-17-1977)

Sec. 102-226. - Requirements for building sewers.

Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the approving authority:

- (1) Install an accessible and safely located control manhole;
- (2) Install meters and other appurtenances to facilitate observation sampling and measurement of the waste; and
- (3) Maintain the equipment and facilities.

(Ord. No. 79, § 14, 2-17-1977)

Sec. 102-227. - Sampling and testing.

- (a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb, and property. (Note: The particular analyses involved will determine whether a 24-hour composite sample from all outfalls of a premises is appropriate or whether a grab sample should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all



outfalls. Where applicable, 16-hour, eight-hour or some other period may be required. Periodic grab samples are used to determine pH.)

- (b) Examination and analyses of the characteristics of waters and wastes required by this article shall be:
  - (1) Conducted in accordance with the latest edition of "Standard Methods;" and
  - (2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.
- (c) B.O.D. and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.
- (d) The town may select an independent firm or laboratory to determine flow, B.O.D., and suspended solids.
- (e) The town is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken.

(Ord. No. 79, § 15, 2-17-1977)

Sec. 102-228. - Payment and agreement required.

- (a) Persons making discharges of industrial waste shall pay a charge to cover the cost of collection and treatment as provided in section 102-229.
- (b) When discharges of industrial waste are approved by the approving authority, the town or its authorized representative shall enter into an agreement or arrangement providing:
  - (1) Terms of acceptance by the town; and
  - (2) Payment by the person making the discharge.

(Ord. No. 79, § 16, 2-17-1977)

Sec. 102-229. - Industrial waste treatment charge.

- (a) Major industries will be charged a fee for the treatment of their wastes based on the following formula:

$$F = V(\$0.30) + a(\text{BOD-200}) + b(\text{SS-200}) + C(\$200)$$

F = Fee charged in dollars.

V = Volume of wastewater treated in 1,000 of gallons

a = average unit cost of treatment, chargeable to B.O.D., \$/mg/l current charge is \$0.011.

c = Number of occurrences of pH limit violations. Each 15-minute duration of portion thereof represents a separate violation.

- (b) Other industries will be reviewed on an individual basis for compliance with all sections of this article and where, in the judgment of the approving authority, an industrial waste charge is appropriate, one will be assessed based on the volume, strength and character of the waste.

EXAMPLE:

Industry X discharges 500,000 gallons per day, seven days per week, with a strength of 500 mg/l BOD and 1500 mg/l SS. The pH is a constant 7, but for 20 minutes on one day, the pH dropped to 6.

$$V = 500$$

$$F = (500)(.30) + 0.11(500-200) + 0.011(1500-250) + 2(200)$$

$$F = 150 + 33 + 13.75 + 400$$

$$F = \$596.75/\text{Day}$$

NOTE: If no pH violation had occurred, the charge would be only \$196.75 or \$71,813.00/yr.

- (c) The town presently has no industrial users. When industrial users are anticipated, the town will submit an industrial recovery cost in accordance with the program regulations for approval by the regional environmental protection agency administrator.

(Ord. No. 79, § 17, 2-17-1977)

Sec. 102-230. - Conditions for permits.

- (a) The town may grant a permit to continue discharge provided that the person:
- (1) Submits an application within 90 days after the effective date of the ordinance from which this article is derived on forms supplied by the approving authority;
  - (2) Secure approval by the approving authority of plans and specifications for pretreatment facilities when required; and
  - (3) Has complied with all requirements for agreements or arrangements including, but not limited to, provisions for:
    - a. Payment of charges;
    - b. Installation and operation of pretreatment facilities; and
    - c. Sampling and analysis to determine quantity and strength; and
  - (4) Provides a sampling point subject to the provisions of this article and approval of the approving authority.
- (b) A person applying for a new discharge shall:
- (1) Meet all conditions of subsection (a) of this section; and
  - (2) Secure a permit prior to discharging any waste.

(Ord. No. 79, § 18, 2-17-1977)

Sec. 102-231. - Power to enter property.

- (a) The public works director and other duly authorized employees of the town bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this article.
- (b) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.
- (c) Except when caused by negligence or failure of the company to maintain safe conditions, the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the sampling operation.

- (d) The superintendent and other duly authorized employees of the town bearing proper credentials and identification are entitled to enter all private properties through which the town holds a negotiated easement for the purposes of:
  - (1) Inspection, observation, measurement, sampling, or repair;
  - (2) Maintenance of any portion of the sewerage system lying within the easements; and
  - (3) Conducting any other authorized activity.

All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

- (e) No person acting under authority of this provision may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.

(Ord. No. 79, § 19, 2-17-1977)

Sec. 102-232. - Authority to disconnect service.

- (a) The town may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:
  - (1) Acids or chemicals damaging to sewer lines or treatment process are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;
  - (2) A governmental agency informs the town that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the town's system that cannot be sufficiently treated or requires treatment that is not provided by the town as normal domestic treatment; or
  - (3) The industrial customer:
    - a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;
    - b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;
    - c. Fails to pay monthly bills for water and sanitary sewer services when due; or
    - d. Repeats a discharge of prohibited wastes to public sewers.
- (b) If service is discontinued pursuant to subsection (a)(2) of this section, the town shall:
  - (1) Disconnect the customer;
  - (2) Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and
  - (3) Continue disconnection until such time as the industrial customer provides additional pretreatment or other facilities designed to remove the objectionable characteristics from his industrial wastes.

(Ord. No. 79, § 20, 2-17-1977)

Sec. 102-233. - Notice.

The town shall serve persons discharging in violation of this article with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

(Ord. No. 79, § 21, 2-17-1977)

Sec. 102-234. - Continuing prohibited discharges.

No person may continue discharging in violation of this article beyond the time limit provided in the notice.

(Ord. No. 79, § 22, 2-17-1977)

Sec. 102-235. - Penalty.

- (a) A person who continues prohibited discharges is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$200.00 for each act of violation and for each day of violation.
- (b) In addition to proceeding under authority of subsection (a) of this section, the town is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.

(Ord. No. 79, § 23, 2-17-1977)

Sec. 102-236. - Failure to pay.

In addition to sanctions provided for by this article, the town is entitled to exercise sanctions provided for by the other ordinances of the town for failure to pay the bill for water and sanitary sewer service when due.

(Ord. No. 79, § 24, 2-17-1977)

Secs. 102-237—102-265. - Reserved.

#### ARTICLE V. - ON-SITE SEWERAGE DISPOSAL<sup>5</sup>

Footnotes:

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**Editor's note**— Ord. No. 851, § 3A, adopted Aug. 21, 2007, repealed and replaced art. V, §§ 102-266—102-276, in its entirety. Formerly, said article pertained to similar subject matter as enacted by Ord. No. 796, § 3A, adopted Oct. 3, 2006.

Sec. 102-266. - Adoption of state law.

The town clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, does adopt and shall fully enforce Chapter 366 of the Texas Health and Safety Code and Chapters 7 and 37 of the Texas Water Code

(TWC), and associated rules referenced in section 102-267. The said laws and the Rules adopted herein are and shall be enforceable by the town within the corporate limits of the town.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-267. - On-site sewage facility rules adopted.

The Rules Title 30 Texas Administrative Code (TAC) § 285.1—285.91 and TAC 30, as amended or supplemented from time to time (together, the "rules"), attached hereto as Appendix I and incorporated herein and thus made a part of this ordinance, promulgated by the Texas Commission on Environmental Quality (the "commission") for on-site sewage systems, are hereby adopted in their entirety and are hereby made a part hereof for all purposes. All officials and employees of the town having duties under said rules are authorized to perform such duties as are required of them under said rules.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-267.5. - More stringent requirements.

Any on-site sewage disposal system using aerobic treatment shall have an annual maintenance contract on that system.

All contracted maintenance of an on-site sewage disposal system using aerobic treatment shall be conducted by a certified maintenance of an on-site sewage disposal system using aerobic treatment unless the property owner/homeowner is a certified maintenance provider for that aerobic treatment unit.

The authorized agent may periodically inspect the on-site sewage disposal system using aerobic treatment for a single-family residence that is maintained directly by the owner of the system regardless of when the authorized agent conducted the last inspection.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-268. - On-site sewage facility rules.

Any person, including, without limitation, any corporation, partnership or other business entity, or individual, discharging or causing the discharge of sewage into an on-site sewage facility within the town shall comply with the rules. Any permit issued for an on-site sewage facility within the jurisdictional area of the Town of Little Elm, Texas must comply with the rules.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-269. - Development of organized disposal systems.

In order to implement the stated policy of the Texas Legislature and the commission to encourage the development and use of organized disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution, protect the public health, and maintain and enhance the quality of water in the state, the following requirements shall be complied with:

- (1) No person may cause or allow the installation of an on-site sewage facility when any part of the facility is to be 300 feet in horizontal distance (measured on the closest practicable access route) of an existing organized system, unless one of the following requirements has been met:
  - a. The person has received a written denial of service from the owner or governing body of the organized disposal system;

- b. The person has received a written determination from the designated representative that it is not feasible for the person to connect to the organized disposal system; or
- (2) No person may cause or allow the installation of an on-site sewage facility on any property or lot less than one acre in size.
- (3) Whenever an organized disposal system is developed within 300 feet in horizontal distance (measured on the closest practicable route) from any portion of a private sewage facility, that shall be connected to the organized system unless one of the requirements set forth in subsections (1) or (2) of this section has been met.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-270. - Duties and powers.

The On-Site Sewage Facility Inspector of the Town of Little Elm, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities. The town council of the town is the representative designated by the commission for the enforcement of this article. The town council shall appoint a person upon recommendation of the director of planning and development to act on its behalf in the capacity of the designated representative. The designated represented has the authority and powers set forth below:

- (1) To resolve any question regarding any interpretation of these rules, or the design criteria.
- (2) To enforce the terms of this article and to make appropriate recommendations to proper town officials when instances of noncompliance with this article has been determined.
- (3) To make statutorily mandated inspections of proposed, new and existing on-site sewage facilities.
- (4) To collect fees set by the town council as necessary to recover the reasonable costs incurred in meeting the requirements of this article.
- (5) To make semi-annual reports to the authorized agent on all actions, including legal actions, taken concerning this article.
- (6) To investigate nuisance complaints within 21 days of receipt. All validated complaints shall be resolved or substantial progress made toward resolution by the responsible individual within 30 days.
- (7) To perform all other duties necessary to meet the requirements of this article.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-271. - Collection of fees.

All fees collected for permits and/or inspections shall be made payable to the town.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-272. - License to operate.

Each new on-site sewage facility shall be inspected and approved by the designated representative prior to the final covering of the facility.

- (1) The applicant or registered installer shall notify the designated representative that an inspection is desired at least five working days prior to the need for inspection.
- (2) The applicant or registered installer shall provide whatever reasonable assistance the designated representative requests in order to make the inspection.

(3) The applicant or registered installer must be present at the time of the inspection for that facility.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-273. - Appeals.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the town council.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-274. - Enforcement.

- (a) The designated representative may routinely inspect on-site sewage facilities to assure continued compliance with this article.
- (b) The designated representative shall inspect any on-site system that is believed to be causing pollution, a threat to the public health, nuisance conditions, or illegally installed or altered. If upon inspection it is found that any of these conditions exists, the owner of the on-site sewage facility will be notified in writing of the violation, and what must be done to achieve compliance, and set a reasonable amount of time to comply. The on-site sewage facility shall be reinspected at the expiration of the allotted time.
  - (1) If the facility is found to be compliant, a license therefore may be issued or the existing license may be modified.
  - (2) If the facility is found to be noncompliant, appropriate enforcement shall be taken.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-275. - Penalties.

The town hereby adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285. Each day of a continuing violation is a separate offense and is punishable as such.

(Ord. No. 851, § 3A, 8-21-2007)

Sec. 102-276. - Emergency repair.

An emergency repair to an on-site sewage facility without a permit is not an offense under these rules if the following procedures are carried out:

- (1) The repair is made for the purpose of abatement of an immediate, dangerous and serious health hazard;
- (2) That said repair does meet minimum state design criteria;
- (3) That said repair does not constitute an alteration of the on-site system;
- (4) That written notification of such repair, including a detailed description of the method and materials used in said repair, is made to the authorized agent within 72 hours of the date of the repair; and
- (5) That said repair must be inspected for compliance with the state's design criteria.

(Ord. No. 851, § 3A, 8-21-2007)

Secs. 102-277—102-312. - Reserved.

#### ARTICLE VI. - WATER CONSERVATION

Sec. 102-313. - Water conservation plan adopted.

The town council hereby approves and adopts the North Texas Municipal Water District Water Conservation, Drought Contingency and Water Emergency Response Plan (hereinafter referred to as the "plan"), as modified by the Town of Little Elm, which is attached to Ordinance No. 1052 and kept on file with the town, and incorporated herein for all purposes as Exhibit A. The town commits to implement the requirements and procedures set forth in the adopted plan.

(Ord. No. 721, § 2, 9-13-2005; Ord. No. 837, § 2(Exh. A), 6-19-2007; Ord. No. 1052, § 3, 5-17-2011)

Sec. 102-314. - Penalty.

Any customer, defined pursuant to 30 Tex. Admin. Code ch. 291, failing to comply with the provisions of the plan shall be subject to a fine not to exceed \$2,000.00 and/or discontinuance of water service by the town. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply with the plan is a separate offense. The town's authority to seek injunctive or civil relief available under the law is not limited by this section.

(Ord. No. 721, § 3, 9-13-2005; Ord. No. 837, § 3, 6-19-2007; Ord. No. 1052, § 4, 5-17-2011)

Sec. 102-315. - Enforcement.

Mandatory water use restrictions will be enforced by any combination of warnings, reconnection fees, suspension of service, citations, monetary penalties and other fees. An escalation of warnings will be used to warn, educate and then enforce restriction if warnings are not heeded. Penalties mentioned in section 102-314 of this article in addition to reconnections fees may be given to those that violate the water conservation and drought contingency plan. The town maintains the right, at any level of violation, to disconnect irrigation system(s) and/or total water service to a customer with reconnection fees and possible monetary penalties. Code enforcement officer or other town staff as designated by the town manager, or his designee, may implement any provision of the enforcement process of the water conservation and drought contingency plan.

(Ord. No. 1052, § 5, 5-17-2011)

Secs. 102-316—102-330. - Reserved.

#### ARTICLE VII. - DROUGHT CONTINGENCY

Sec. 102-331. - Drought contingency plan adopted.



The town council hereby approves and adopts the North Texas Municipal Water District Water Conservation, Drought Contingency and Water Emergency Response Plan (hereinafter referred to as the "plan"), as modified by the Town of Little Elm, which is attached to Ordinance No. 1052 and kept on file with the town, and incorporated herein for all purposes as Exhibit A. The town commits to implement the requirements and procedures set forth in the adopted plan.

(Ord. No. 722, § 2, 9-13-2005; Ord. No. 838, § 2(Exh. A), 6-19-2007; Ord. No. 1052, § 3, 5-17-2011)

Sec. 102-332. - Penalty.

Any customer, defined pursuant to 30 Tex. Admin. Code ch. 291, failing to comply with the provisions of the plan shall be subject to a fine not to exceed \$2,000.00 and/or discontinuance of water service by the town. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply with the plan is a separate offense. The town's authority to seek injunctive or civil relief available under the law is not limited by this section.

(Ord. No. 722, § 3, 9-13-2005; Ord. No. 838, § 3, 6-19-2007; Ord. No. 1052, § 4, 5-17-2011)

Sec. 102-333. - Enforcement.

Mandatory water use restrictions will be enforced by any combination of warnings, reconnection fees, suspension of service, citations, monetary penalties and other fees. An escalation of warnings will be used to warn, educate and then enforce restriction if warnings are not heeded. Penalties mentioned in section 102-332 of this article in addition to reconnections fees may be given to those that violate the water conservation and drought contingency plan. The town maintains the right, at any level of violation, to disconnect irrigation system(s) and/or total water service to a customer with reconnection fees and possible monetary penalties. Code enforcement officer or other town staff as designated by the town manager, or his designee, may implement any provision of the enforcement process of the water conservation and drought contingency plan.

(Ord. No. 1052, § 5, 5-17-2011)

Secs. 102-334—102-399. - Reserved.

ARTICLE VIII. - SOLID WASTE DISPOSAL <sup>61</sup>

Footnotes:

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**Editor's note**— Ord. No. 1360, § 2, adopted Nov. 15, 2016, repealed the former art. VIII, §§ 102-400—102-405, 102-415—102-422, 102-430—102-435.5 and enacted a new art. VIII, as set out herein. The former art. VIII pertained to similar subject matter and derived from Ord. No. 1129, § 2, adopted Mar. 5, 2013.

DIVISION 1. - GENERAL

Sec. 102-400. - Purpose.

- (a) The accumulation of garbage, trash, rubbish, brush and other refuse on the premises of private residences, businesses, public and private institutions, vacant lots, and in the streets, and alleys and on other property ("premises") within the town, constitutes a health hazard, fire hazard, safety hazard, public menace or nuisance and greatly increases the danger of the spread of infections, contagious and epidemic diseases, The regulations of this article are adopted for the purpose of preserving and protecting the public health, safety and general welfare by requiring property owners, tenants, occupants and leases to secure and maintain containers and receptacles of sufficient size and material for the deposit of garbage, trash, rubbish, and recyclable materials for collection and removal at regular intervals and to maintain their premises free of accumulations thereof.
- (b) The town provides for solid waste and recycling services to residential customers including residents inhabiting multi-family dwellings and solid waste services to nonresidential customers through a franchise ordinance with a designated provider ("franchisee"). The town franchise ordinance grants exclusive rights to the franchisee to provide collection, hauling, and disposal of solid waste for residential and nonresidential customers, and collection and hauling of residential recyclable materials. This article establishes the responsibilities of residential and nonresidential customers regarding collection, transportation, and disposal of solid waste and recyclable materials.
- (c) It shall be unlawful for any other person or entity other than the designated franchisee to provide municipal solid waste collection or disposal services to any person or entity for compensation within the town, or to make use of the public streets for solid waste or recycling collection purposes.
- (d) The town has adopted a monthly fee in the fee schedule for the collection of household hazardous waste and electronic waste commonly referred to as HHW and E-waste, respectively. This fee is charged through residential and multifamily monthly utility charges and is based on a contract adjustment with the town's franchisee. The HHW and E-waste is to be collected during the town's semi-annual clean-up event referred to as the "Clean and Green Event" held during the spring and fall of each year.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-401. - Definitions.

Terms used in this article shall have the following meanings:

*Brush* shall mean plants or grass clippings, leaves or tree trimmings, including bags and/or bundles of landscape waste.

*Bulky or bulk waste* shall mean indoor/outdoor furniture, mattresses and box springs, carpet, swing sets, plastic swimming pools, large toys, bicycles, fish aquariums, large household appliances, white goods and similar items. No white goods shall contain any hazardous materials including, but not limited to, chlorofluorocarbon compounds (CFC).

*Commercial* means any structure or building other than a residential structure or multifamily dwellings, including business structures, hotels, motels, rooming houses, mobile home parks, or boarding houses.

*Commercial container* shall mean a truck-loaded or truck-emptied non-disposable container, commonly referred to as a dumpster or roll off, used for the collection of commercial solid waste.

*Commercial solid waste* shall mean all types of solid waste generated by store, offices, restaurants, institutions, warehouses, and manufacturing activities, excluding residential wastes and grease from commercial restaurants and other food service establishments.

*Commercial tree trimmer* means a person who or firm that engages in and solicits the trimming, and/or cutting of trees as a regular part of the business.

*Construction debris* means waste building materials resulting from construction, remodeling, repair, demolition or landscaping operations.

*Construction materials* shall mean demolition of waste including any and all solid waste resulting from any construction, remodel or demolition projects and the cleanup of such projects within the town limits; including but not limited to debris, broken concrete and rebar, paper, plastics, cartons, gypsum board, wood, excelsior, rubber masonry, sheetrock, drywall, roofing materials, and all other materials, including rock and earthen materials and other materials resulting from or incidental to the cleanup of such projects or that are directly or indirectly the byproducts of construction, remodel, or demolition work with respect to existing buildings or other structures under development.

*Container* shall mean a rubber wheeled container having a maximum capacity of 95 gallons, designed for semi-automated or automated solid waste collection systems. Construction shall be molded polyethylene; also herein referred to as a polycart.

*Customer* means an occupant or owner of a residential, commercial or industrial unit who generates solid waste.

*Dead animals* shall mean animals or portions thereof equal to or greater than ten pounds in weight that have expired from any cause except those slaughtered or killed for human use.

*Electronic waste (E-waste)* is a popular, informal name for electronic products nearing the end of their "useful life." Computers, televisions, VCRs, stereos, copiers, and fax machines are common electronic products. Many of these products can be reused, refurbished, or recycled.

*Franchise agreement or franchise ordinance* shall mean the legal instrument that defines the exclusive rights and responsibilities of the private waste company that collects, hauls, and disposes of solid waste materials within the town limits and collects and recycles recyclable materials.

*Franchisee* shall mean a private waste company that collects, hauls, and disposes of solid waste materials within the town limits and collects and recycles recyclable materials.

*Garbage* shall mean solid waste consisting of putrescible animals and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

*Hazardous waste* means any commercial or residential garbage, trash, rubbish, or other solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act 42 U.S.C. 6901 et seq., as amended.

*Household hazardous waste (HHW)* means any waste, produced in the home, which contains hazardous substances, which may pose threat to the environment, wildlife, and human health. Products containing hazardous substances are often labeled with words such as: toxic, flammable, corrosive, reactive, danger, warning, caution, flammable, explosive, do not use near open flame, and other cautionary words. Hazardous products become hazardous waste once the consumer no longer has any use for them.

*Infectious waste* means commercial or residential garbage, trash, or rubbish, or other waste containing pathogens or biologically active material which because of its type, concentration, and quantity is capable of transmitting disease to persons exposed to the waste, including human and animal tissue, bandages and other material used in health care which became contaminated by pathogenic materials.

*Menace* shall mean anything that constitutes a threat to or endangers the public health.

*Multi-family dwelling* includes apartments, town homes and condominiums, but excludes mobile home parks.

*Municipal solid waste* shall mean solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial solid waste.

*Non-residential customer* shall mean all commercial establishments, schools, institutions, using steel or plastic containers, dumpsters, roll offs, or compactors to store solid waste until scheduled collection service occurs.

*Nuisance* shall mean solid waste that is stored, processed or disposed of in a manner that causes the pollution of surrounding land, the contamination of groundwater or surface water, the breeding of insects or rodents, or the creation of odors adverse to human health, safety or welfare.

*Person* shall mean any person, firm, corporation, business trust, partnership, association, organization or municipal entity, incorporated or nonincorporated, other than the town.

*Polycart* shall mean a rubber wheeled container having a maximum capacity of 95 gallons designed for semi-automated or automated solid waste collection systems. Construction shall be molded polyethylene. Ownership of the polycart shall remain with the franchisee.

*Premises* shall mean all public and private establishments, including individual residences, all multifamily dwellings, residential care facilities, hospitals, schools, businesses, other buildings and all vacant lots.

*Recyclable materials* or *recyclables* shall mean materials that have been designated by the town to be recovered or diverted from the nonhazardous solid waste stream for purposes of reuse, recycling, or reclamation a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

*Refuse* shall mean nonputrescible solid waste (excluding ashes) consisting of both combustible and noncombustible waste materials.

*Residential* means a structure, house or building occupied as a dwelling only, and which contains no more than two dwelling units.

*Residential construction and demolition waste* shall mean construction, demolition, and/or remodeling waste generated as a result of the construction activity at a single-family, two-family, condominium, town home, multifamily, or apartment dwelling located in a town subdivision.

*Residential customer* shall mean a resident of a single- or two-family dwelling.

*Residential garbage* consists of all normal household waste, except plant clippings, leaves, tree trimmings, ashes, metal scraps and other cans, large accumulations of boxes, demolition and remodeling debris and other material that cannot be broken down to fit in regular garbage containers.

*Residential solid waste* means all matter included under the definitions of garbage, rubbish, and bulky items.

*Residential unit* means a single-family or duplex dwelling. A residential unit shall be deemed occupied when water and sewer service is supplied thereto by the town.

*Rubbish* means all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches, thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping, crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and all other waste materials not included in the definition of "bulky items" "construction debris," "dead animals," "garbage," "hazardous waste," or "stable matter."

*Solid waste* shall mean garbage, refuse, rubbish, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

- (1) Solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under V.T.C.A., Texas Water Code, Chapter 26;
- (2) Soil, dirt, rock, sand, and other natural or manmade inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or

- (3) Waste materials that result from activities associated with the exploration, development or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under V.T.C.A., Natural Resources Code § 91.101, unless the waste, substance or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants, and is hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act, as amended (42 USC 6901 et seq.).
- (4) Unacceptable waste. Unacceptable waste shall mean any and all waste, including but not all limited to hazardous waste; Class 1 nonhazardous special waste, and untreated medical waste, the acceptance of which would cause the franchisee to violate any permit condition, legal or regulatory requirement, or damage franchisee's equipment or facilities, or present a substantial danger to the health or safety of the public or the franchisee's employees. Examples of unacceptable waste include, but are not limited to:
- a. Hazardous waste from conditionally exempt small-quantity generators that may be exempt from full controls under 335.401—335.412 of this title (relating to household materials which could be classified as hazardous waste);
  - b. Class I industrial nonhazardous waste not routinely collected with municipal solid waste;
  - c. Special waste from health-care-related facilities (refers to certain items of medical waste);
  - d. Municipal wastewater treatment plant sludges, other types of domestic sewage treatment plant sludges, and water-supply treatment plant sludges;
  - e. Septic tank pumpings;
  - f. Grease and grit trap wastes;
  - g. Waste from commercial or industrial wastewater treatment plants; air pollution control facilities, and tanks, drums, or containers used for shipping or storing any material that has been listed as a hazardous constituent in 40 CFR 261, appendix VIII, but has not been listed as a commercial chemical product in 40 CFR 261.33(e) or (f);
  - h. Slaughterhouse wastes;
  - i. Dead animals;
  - j. Drugs, contaminated foods, or contaminated beverages, other than those contained in normal household waste;
  - k. Pesticide (insecticide, herbicide, fungicide, or rodenticide) containers;
  - l. Discarded materials containing asbestos;
  - m. Incinerators ash;
  - n. Soil contaminated by petroleum products, crude oils, or chemicals;
  - o. Used oil;
  - p. Light ballasts and/or small capacitors containing polychlorinated biphenyl (PCB) compounds;
  - q. Waste from oil, gas, and geothermal activities subject to regulation by the Railroad Commission of Texas when those wastes are to be processed, treated, or disposed of at a solid waste management facility permitted under this article;
  - r. Waste generated outside the boundaries of Texas that contains;
    - 1. Any industrial waste;
    - 2. Any waste associated with oil, gas, and geothermal exploration, production, or developmental activities; or

3. Any items listed as a special waste in this paragraph;
  - s. Any waste stream other than household or commercial garbage, refuse or rubbish;
  - t. Lead acid storage batteries; and
  - u. Used oil filters from internal combustion engines.

*White goods* shall mean appliances such as refrigerators, stoves, washers, dryers, and other large enameled appliances, which do not contain polychlorinated biphenyls (PCB) or chlorofluorocarbon compounds (CFC) and have been officially certified to that effect.

*Yard waste* shall mean leaves, yard trimmings, yard and garden debris, Christmas trees, and brush, including clean woody vegetative material not greater than four inches in diameter which results from landscaping maintenance and land clearing operations. The term does not include stumps, roots, or shrubs with intact root balls and specifically excludes all treated wood.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-402. - Service required.

All occupied residential, multifamily dwellings and nonresidential structures within the town shall be charged monthly for and shall receive solid waste collection and disposal services at intervals hereinafter established.

(Ord. No. 1370, § 2, 11-15-2016)

Sec. 102-403. - Prohibitions.

- (a) Storage or accumulations of solid waste or recyclable materials that is unsightly or a health or safety hazard is prohibited. No owner, lessee, or occupant of any residential or nonresidential unit shall permit the accumulation of any solid waste recyclable material on residential or nonresidential premises except in acceptable containers as defined herein. Proper storage of such materials between collection days is required to ensure prevention of littering and unsanitary conditions.
- (b) It shall be unlawful for the owner, occupant, or person in control of any premises to allow solid waste or recyclable materials to be piled, placed, or accumulated on any sidewalk, street, or other right-of-way within the town limits.
- (c) No person shall dump, throw or place any solid waste, ashes, grass cuttings, rock, or any other material of any kind in or on any public street, alley, storm sewer, drainage structure, drainage channel, or other public or private property in the town except for the designated collection location on the designated collection day.
- (d) All hazardous waste, special waste (as defined in state or federal regulations), and medical waste materials must be disposed of in accordance with local, state, and federal regulations.
- (e) It shall be unlawful for any person to deposit any burning material (burning match, charcoal, embers, etc.) into any container used for disposal of solid waste or recyclable materials.
- (f) It shall be unlawful for any person to dispose of solid waste, recyclable material, or any other waste material by fire, burial, or similar methods within the town limits.
- (g) Meddling with solid waste or recycling containers or in any way pilfering, scattering contents, or scavenging materials from such containers is prohibited by anyone other than the owner or resident of the premises where the container is located.
- (h) No person shall place any solid waste or recyclable materials into any residential or nonresidential waste container without the effective consent of the owner, tenant, lessee, or occupant of the premises upon which said container is located.

- (i) It shall be unlawful to place solid waste in, on, or near a solid waste container in a manner that does not allow the lid of the solid waste container to completely close with all the solid waste completely within the container.
- (j) No person shall knowingly place any solid waste, bulky items or any other material in, on, or next to the solid waste container of another person or entity in the town.
- (k) Residents are prohibited from setting out any solid waste that is generated from a nonresidential source to be collected as residential solid waste.
- (l) No appliances set out for bulk waste collection shall contain any hazardous materials of any kind. Appliances or items that contain or have polychlorinated biphenyls (PCB) or chlorofluorocarbon compounds (CFC) or other liquid or gaseous compounds and which are set out for bulk waste collection must have the polychlorinated biphenyls (PCB) or chlorofluorocarbon compounds (CFC), or other liquid or gaseous compounds removed by a certified technician and be tagged by the certified technician as being free from polychlorinated biphenyls (PCB) or chlorofluorocarbon compounds (CFC), or other liquid or gaseous compounds.
- (m) No hazardous waste (as defined herein), medical waste, soil, dirt, rock, sand, or concrete shall be set out for residential collection.
- (n) It shall be unlawful for any person to place nonrecyclable materials in a recyclable container.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-404. - Removal of unauthorized containers.

All solid waste and recycling storage containers, not meeting the requirements of this article shall be removed and disposed of by the town or its franchisee, and the town shall not be liable for the removal and disposal of the same.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-405. - Weight limitations of containers.

The total weight of any polycart and contents shall not exceed 175 pounds.

(Ord. No. 1360, § 2, 11-15-2016)

Secs. 102-406—102-414. - Reserved.

## DIVISION 2. - RESIDENTIAL CUSTOMER RESPONSIBILITIES

Sec. 102-415. - Service established.

Residential customers shall establish service at the same time the customer's water account is established. The charges for solid waste, recycling services and household hazardous waste fee shall be included on the monthly utility bill of the residential customer. Residential customers are required to make full payment for solid waste, recycling and household hazardous waste services at the same time of payment for water and sewer services. No partial payments solid waste, recycling and household hazardous waste services will be allowed.

If residential water or sewer service is not available or provided, the residential customer shall contact the town's customer service division to arrange for solid waste, recycling and household hazardous waste services in order to establish service.

Sec. 102-416. - Charges for residential services.

- (a) As used in this section, the term "individual family unit" shall mean each side of a duplex, each living unit per subdivided lot. Each apartment in a structure that contains no more than two units and any unit or living pace in which a single family resides.
- (b) The charge for collecting solid waste from each individual family until shall be in an amount established and as from time-to time amended by ordinance and adopted by the town council; the ordinance and amendments thereto shall be kept of file with the town secretary and shall be available for public inspection during regular business house. A penalty for an overdue bill may be charged.
- (c) Mobility or visually impaired customers may receive special collection services. Containers shall be placed in locations designated by the town. The resident receiving this special service must apply for such accommodations and must be mobility or visually impaired where no member of the household is physically able to place the container(s) at the curb. Such special services shall require approval by the director of public works or designee. The monthly rate for these special collection services will be the same rate as is charged to those customers with no impairments.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-417. - Residential trash/recycling collection service.

- (a) Polycarts shall be placed at or near the street pavement edge, a minimum of four feet from any mailbox, vehicle, obstacle, or other container. The director of public works or designee may make reasonable exceptions to the foregoing location requirements, as needed upon request of the customer and in cooperation with the town's franchisee, to meet unique circumstances.
- (b) Except for bulky waste collection, only authorized refuse and recycling polycarts provided by the town will be serviced. No other containers, boxes, or bags placed at the collection site will be collected, on the scheduled collection day.
- (c) Residential refuse and recyclable polycarts shall be placed at the curb no earlier than 7:00 p.m. on the day prior to the scheduled collection day. To ensure collection; residential refuse and recyclables shall be placed at the curb no later than 7:00 a.m. on the day of collection. At all other times, residents are required to place polycarts behind the front building line of their home.
- (d) Customers whose refuse or recyclables were not collected because; they were not placed at the proper location, they contained unacceptable materials, or they were not placed out for collection at the required time, shall not be collected until the next regularly scheduled collection service.
- (e) Containers, polycarts, receptacles and any other unacceptable waste or recyclables, shall be removed from the curb or other designated collection point by the customer no later than 7:00 a.m. on the day following their scheduled collection day.
- (f) All garbage and refuse materials shall be separately bagged or otherwise securely contain all contents prior to placement in the appropriate polycart and shall be capable of being handled without spillage. Refuse and garbage determined by the town to not be properly contained shall not be collected.
- (g) Dead animals shall not be placed in containers or at collection points for residential services. Residents shall contact the town's animal control division for proper disposal of dead animals.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-418. - Residential bulk waste collection.



- (a) Household furnishings, goods and appliances, including but not limited to stoves, refrigerators, washing or drying machines, water heaters, sofas, chairs, tables, mattresses, and box springs, may be disposed of on bulk trash collection day, in the same location as regular collection services.
- (b) Residential bulk waste shall be placed curbside for service not earlier than 48 hours prior to 7:00 a.m. of the first day of their respective bulk waste service/collection period and not later than 7:00 a.m. of the first day of their respective service/collection period.
- (c) A person commits an offense if they set bulk waste out more than 48 hours prior to 7:00 a.m. of the first day of service/collection period and after 7:00 a.m. of the first day of the service/collection period.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-419. - Yard waste, tree limbs and cuttings.

- (a) Brush bundles are not to be greater than two x two x four-foot, must be tied and bundled and shall not weigh more than 50 pounds. No unit or piece shall weigh more than 50 pounds. Yard waste consisting of small pieces, small cuttings, and small loose material shall be placed in bags.
- (b) Yard waste, brush, tree limbs, and cuttings shall be placed at curbside no earlier than 6:00 p.m. on the day prior to the scheduled bulk trash collection day.
- (c) Brush, limbs, leaves, and cuttings from trees and shrubs which have been trimmed or removed by a commercial tree trimmer shall be disposed of at the expense of the owner or the person controlling the premises.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-420. - Residential collection schedules.

- (a) Collection schedules for residential solid waste and recycling services shall be determined by the town in cooperation with the franchisee.
- (b) Complaints regarding missed collections shall be reported directly to the franchisee, as provided in the franchise ordinance, as soon as the missed collection is discovered.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-421. - Residential containers.

- (a) All materials shall be placed in acceptable containers as defined herein, and shall be placed in such containers in such a way as to prevent littering or spilling of materials onto public areas or neighboring sites.
- (b) Placement of solid waste or recycling container shall be at the edge of the street or alley without interfering with or endangering the movement of vehicles or blocking vehicle or pedestrian line of sight.
- (c) Recycling containers are strictly for the collection of acceptable recyclable materials as determined by the town in cooperation with the franchisee. All recyclable materials must be placed within the container. A person commits an offense if they place anything other than approved recycle materials in the recycling container.
- (d) A person commits an offense if he damages any solid waste or recycling container.
- (e) Residents shall not remove containers from the address to which the container is assigned.

A resident shall report a missing or damaged polycart to the town as soon as the resident becomes aware of such a loss.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-422. - Residential construction and demolition material.

- (a) Construction and demolition material that results from construction, remodeling, repairing, or destruction of residential service shall not be subject to the franchise agreement if collected and transported via pickup truck, pickup truck and trailer(s), dump truck(s), dump truck and trailer(s), semi-tractor and trailer(s), or any combination of these. Any roll-off, frontload, or other containerized unit to collect, hold, or transport construction and demolition waste at the construction site shall be those owned and operated by the franchisee.
- (b) Residential construction and demolition materials prohibited from being set out for residential collection services, except that miscellaneous small construction related materials and fencing materials from a residential construction and demolition project may be set out as bulky waste.

(Ord. No. 1360, § 2, 11-15-2016)

Secs. 102-423—102.429. - Reserved.

### DIVISION 3. - NONRESIDENTIAL CUSTOMER RESPONSIBILITIES

Sec. 102-430. - General.

- (a) All nonresidential customers shall contract with the town for solid waste collection services.
- (b) It shall be unlawful for any person other than the town's franchisee to collect or remove solid waste materials from a commercial container.
- (c) Collection shall not be provided before 7:00 a.m. or after 8:00 p.m. if the location for collection is within 500 feet of any residential dwelling or residential complex including apartments or townhomes containing more than two units.
- (d) Nonresidential customers shall remit payments for solid waste and recyclables services directly to the town's franchisee.
- (e) Nonresidential customers may receive recycling services from the town's franchisee upon request.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-431. - Nonresidential solid waste services required.

Every owner, occupant, tenant, or lessee of any business, commercial, industrial, school or institutional property, or other property not entitled to receive residential solid waste collection services shall arrange, by contract with the town, for commercial solid waste collection and disposal services from the town's franchisee.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-432. - Charges for nonresidential service.

The charge for collection and removal of municipal solid waste from premises use for business, industrial, or institutional purposes shall be based upon the size, type and number of containers in use at

such establishments and the frequency with which such containers are scheduled to be serviced. Such charges shall be in an amount established and from time to time amended, by ordinance as adopted by the town council; the ordinance and amendments thereto shall be kept on file with the town secretary and shall be available for public inspection during regular business hours.

(Ord. No. 1360, § 2, 11-15-2016)

Sec 102-433. - Containers furnished by town's franchisee for nonresidential facilities.

- (a) The director of public works, in cooperation with the town's franchisee, will designate the placement of containers for use by commercial, industrial, and institutional facilities in accordance with the waste storage needs of the individual facility. All facilities for which containers are so provided by the town shall place all refuse and waste materials in such containers and shall not place waste in any containers except those designated by the director of public works. It shall be unlawful for any person using such containers to leave the lid open after placing refuse material therein.
- (b) Enclosures are required for dumpsters, in accordance with the town's zoning regulations for nonresidential facilities.
- (c) Upon adoption of this article, enclosures are required for dumpsters located at all existing nonresidential facilities. Occupants, property management agencies, and owners are required to install a dumpster enclosure within six months of adoption of this article. These dumpster enclosures shall be constructed in accordance with the town's zoning regulations. If the nonresidential facility is a nonconforming structure in regard to the masonry structure requirements, and has less than 75 percent masonry content, the owner may apply for administrative approval for a dumpster enclosure that shall be constructed of a six-foot solid wooden fence with a metal gate. Building permits are required prior to construction for all dumpster enclosures.
- (d) All enclosures are required to have a ten-foot wide gate opening to accommodate commercial dumpster trucks.
- (e) The enclosure requirement will apply to dumpsters provided by the franchisee for recycling purposes on a case by case basis based on the town's standard specifications.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-434. - Collection containers and schedules.

- (a) Nonresidential customers shall contract with the town for solid waste collection services and acquire an appropriately sized commercial container at a frequency that prevents the accumulation of waste outside the container and prevents littering or spilling of materials onto public areas or neighboring sites. Collection of nonresidential solid waste shall not be made less than one time per week.
- (b) Overfilled containers will not be emptied if a safety hazard exists. Customer will be responsible for removing the excess and collection will be rescheduled when the excess material has been removed.
- (c) The customer is responsible for providing access to the solid waste container and keeping the area around and on top of the container clear of obstructions so that the container can be serviced as scheduled. If container is blocked and not cleared, service will not be provided. Customer will be responsible for the cost of extra collections required.
- (d) The customer will be responsible for odor and insect control around containers.
- (e) Commercial containers shall not be placed on any sidewalk, street, or other public right-of-way, and shall be placed solely on private property. It shall be unlawful for the owner occupant or person in control of any premises to allow solid waste or recyclable materials to be piled, placed, or accumulated on any sidewalk, street, or other public right-of-way within the town limits. Commercial containers shall

be placed on the site in such a manner that the collection vehicle is able to service the container without obstructing public right-of-way.

- (f) All commercial customers utilizing a compactor who lease the compactor must lease such compactors from franchisee. Commercial customers shall have the right to purchase compactors from third parties, but must utilize the franchisee for compactor disposal service.
- (g) All solid waste frontload and roll-off containers shall display the name and phone number of the franchisee.
- (h) Commercial containers owned by the franchisee shall not be marked, modified, or damaged by the customer in any way.
- (i) Commercial construction, remodel, and demolition materials as defined herein must be collected in containers owned by the operator or by the franchisee, including any roll-off, frontload, or other containerized unit.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-435. - Nonresidential fees.

The monthly fee for solid waste collection and disposal services shall be set from time to time by appropriate written resolution ordinance of the town council. Such fee shall include collection and disposal charges, monthly billing charges, franchise fees and applicable sales tax. The monthly fee for such services shall be charged along with water and sewer charges. A penalty for an overdue bill may be charged.

DIVISION 4. - MULTIFAMILY CUSTOMER RESPONSIBILITIES

Sec. 102-435.1. - General.

- (a) The town's franchised solid waste provider shall provide solid waste collection and recycling services for multifamily dwellings and shall directly bill the owner, or person in control of the premises for the charges for such services.
- (b) In multifamily complexes, the owner or responsible party shall contract with the franchised waste services provider for waste receptacles or containers as required by the approved site plan and the regulations of this Code.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-435.2. - Charges for multifamily service.

- (a) The charge for collection and removal of municipal solid waste from premises used for as multifamily dwelling purposes shall be based upon the size, type and number of containers in use at such establishments and the frequency with which such containers are scheduled to be serviced. Such charges shall be in an amount established and, from time to time amended, by ordinance as adopted by the town council; the ordinance and amendments thereto shall be kept on file with the town secretary and shall be available for public inspection during regular business hours.
- (b) Multiple-dwelling units having water billed through a single meter will be billed a single solid waste charge along with the water charge, regardless of the occupancy of such multiple-dwelling units.
- (c) Multiple-dwelling units classified as senior living complexes, fraternities, sororities, boardinghouses, and dormitories shall be billed as a commercial service. Any multiple-dwelling unit which requires more

than the minimum service described in this article is subject to having the charges increased by the director of public works based upon the additional required service.

- (d) Multifamily dwellings will be billed the residential fee for household hazardous waste based on occupancy levels and residents of the multifamily units can use the services accordingly.

(Ord. No. 1360, § 2, 11-15-2016)

Sec 102-435.3. - Containers furnished by the town's franchisee for multifamily dwellings.

- (a) The director of public works, in cooperation with the town's franchisee, will designate the placement of containers for use by multifamily dwellings in accordance with the waste storage needs of the individual facility. All facilities for which containers are so provided by the town's franchisee shall place all refuse, waste and recyclable materials in such designated containers and shall not place waste in any containers except those designated by the director [of] public works. It shall be unlawful for any person using such containers to leave the lid open after placing refuse or recyclable material therein.
- (b) Enclosures are required for dumpsters, in accordance with the town's zoning regulations for multifamily dwellings.
- (c) Enclosures are required for dumpsters located at all existing multifamily dwellings. Occupants, property management agencies, and owners are required to install a dumpster enclosure. These dumpster enclosures shall be constructed in accordance with the town's zoning regulations. If the multifamily dwelling is a nonconforming structure in regard to the masonry structure requirements, and has less than 75 percent masonry content, the owner may apply for administrative approval for a dumpster enclosure that shall be constructed of a six-foot solid wooden fence with a metal gate. Building permits are required prior to construction for all dumpster enclosures.
- (d) All enclosures are required to have a ten-foot wide gate opening to accommodate commercial dumpster trucks.
- (e) The enclosure requirement will apply to dumpsters provided by the franchisee for recycling purposes on a case by case basis.

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-435.4. - Collection containers and schedules.

- (a) Multifamily dwellings shall contract with the town for solid waste collection services and acquire an appropriately sized commercial container at a frequency that prevents the accumulation of waste outside the container and prevents littering or spilling of materials onto public areas or neighboring sites. Collection of multifamily dwelling solid waste shall not be made less than one time per week and recyclables on a scheduled basis as determined by the town's franchisee.
- (b) Overfilled containers will not be emptied if a safety hazard exists. Owners, or property management companies will be responsible for removing the excess and collection will be rescheduled when the excess material has been removed.
- (c) The multifamily customer is responsible for providing access to the solid waste and recyclable containers and keeping the area around and on top of the container clear of obstructions so that the container can be serviced as scheduled. If container is blocked and not cleared, service will not be provided. Customer will be responsible for the cost of extra collections required.
- (d) The multifamily customer will be responsible for odor and insect control around containers.
- (e) Containers shall not be placed on any sidewalk, street, or other public right-of-way, and shall be placed solely on private property. It shall be unlawful for the owner occupant or person in control of any premises to allow solid waste or recyclable materials to be piled, placed, or accumulated on any

sidewalk, street, or other public right-of-way within the town limits. Commercial containers shall be placed on the site in such a manner that the collection vehicle is able to service the container without obstructing public right-of-way.

- (f) All multifamily customers utilizing a compactor who lease the compactor must lease such compactors from franchisee. Commercial customers shall have the right to purchase compactors from third parties, but must utilize the franchisee for compactor disposal service.
- (g) All solid waste frontload and roll-off containers shall display the name and phone number of the franchisee.
- (h) Commercial containers owned by the franchisee shall not be marked, modified, or damaged by the customer in any way.
- (i) Commercial construction, remodel, and demolition materials as defined herein must be collected in containers owned by the operator or by the franchisee, including any roll-off, frontload, or other containerized unit.
- (j) Apartment recycling containers. A minimum of one recycling container will be provided for each apartment complex. Apartment complexes with more than 150 units will receive one recycling container per 150 units (example: 600 units = four recycling dumpsters). The recycling container(s) must be readily identifiable as "Recycling Only" and kept in neat and clean appearance. The recycling container(s) shall be accessible seven days per week, 24 hours per day by apartment residents.
- (k) The recycling dumpster shall be serviced on a scheduled basis as determined by the town's franchisee.
- (l) The recycling container shall be a metal receptacle, designed to discourage contamination, bearing contractor's logo, provided by and the property of contractor. The recycling dumpster shall have a minimum capacity of eight yards and be identifiable as "Recycling Only". It shall be the responsibility of contractor to supply, maintain and deliver the recycling container to apartment units.
- (m) The town franchisee shall make collections with a minimum of noise and disturbance. Work shall be done in a sanitary manner. Any recyclable materials spilled by contractor shall be picked up immediately by contractor's employees. Contractor shall make available a minimum of one recycling dumpster, slotted to accept the following items: newspapers with slicks, magazines, junk mail, envelopes, cereal boxes, cardboard, chipboard and telephone books, mixed recyclables (plastics #1-7, except 6; aluminum cans, steel cans, glass bottles and containers).

(Ord. No. 1360, § 2, 11-15-2016)

Sec. 102-435.5. - Multifamily fees.

The monthly fee for solid waste and recyclables collection and disposal services shall be set from time to time by appropriate written resolution ordinance of the town council. Such fee shall include collection and disposal charges, monthly billing charges, franchise fees and applicable sales tax. The monthly fee for such services shall be charged along with water and sewer charges. A penalty for an overdue bill may be charged. The monthly fee for solid waste and recyclables collection and disposal services shall be set from time to time by appropriate written resolution ordinance of the town council.

(Ord. No. 1360, § 2, 11-15-2016)

#### ARTICLE IX. - LANDSCAPE IRRIGATION

Sec. 102-436. - Definitions.

The following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

*Air gap.* A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or nonpressure receiving vessel.

*Atmospheric vacuum breaker.* An assembly containing an air inlet valve, a check seat, and an air inlet port. The flow of water into the body causes the air inlet valve to close the air inlet port. When the flow of water stops the air inlet valve falls and forms a check against back-siphonage. At the same time it opens the air inlet port allowing air to enter and satisfy the vacuum. Also known as an atmospheric vacuum breaker back-siphonage prevention assembly.

*Backflow prevention.* The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.

*Backflow prevention assembly.* Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.

*Completion of irrigation system installation.* When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.

*Consulting.* The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.

*Cross-connection.* An actual or potential connection between a potable water source and an irrigation system that may contain contaminants or pollutants or any source of water that has been treated to a lesser degree in the treatment process.

*Design.* The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.

*Design pressure.* The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.

*Double check valve.* An assembly that is composed of two independently acting, approved check valves, including tightly closed resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. Also known as a double check valve backflow prevention assembly.

*Emission device.* Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.

*Employed.* Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, § 3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

*Head-to-head spacing.* The spacing of spray or rotary heads equal to the manufacturer's published radius of the head.

*Health hazard.* A cross-connection or potential cross-connection with an irrigation system that involves any substance that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.

*Hydraulics.* The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

*Inspector.* A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.

*Installer.* A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30 (relating to occupational licenses and registrations).

*Irrigation inspector.* A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to occupational licenses and registrations).

*Irrigation plan.* A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

*Irrigation services.* Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

*Irrigation system.* An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by V.T.C.A., Agricultural Code, § 251.002.

*Irrigation technician.* A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to occupational licenses and registrations).

*Irrigation zone.* A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

*Irrigator.* A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

*Irrigator-in-charge.* The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

*Landscape irrigation.* The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

*License.* An occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

*Mainline.* A pipe within an irrigation system that delivers water from the water source to the individual zone valves.

*Maintenance checklist.* A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: Checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water



purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

*Major maintenance, alteration, repair or service.* Any activity that involves opening to the atmosphere the irrigation mainline at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

*Master valve.* A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

*Matched precipitation rate.* The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

*New installation.* An irrigation system installed at a location where one did not previously exist.

*Nonhealth hazard.* A cross-connection or potential cross-connection from a landscape irrigation system that involves any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the potable water supply.

*Nonpotable water.* Water that is not suitable for human consumption. Nonpotable water sources include, but are not limited to, irrigation systems, lakes, ponds, streams, gray water that is discharged from washing machines, dishwashers or other appliances, water vapor condensate from cooling towers, reclaimed water, and harvested rainwater.

*Pass-through contract.* A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.

*Potable water.* Water that is suitable for human consumption.

*Pressure vacuum breaker.* An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a pressure vacuum breaker back-siphonage prevention assembly.

*Reclaimed water.* Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

*Records of landscape irrigation activities.* The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

*Reduced pressure principle backflow prevention assembly.* An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.

*Static water pressure.* The pressure of water when it is not moving.

*Supervision.* The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.

*Water conservation.* The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

*Zone flow.* A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

*Zone valve.* An automatic valve that controls a single zone of a landscape irrigation system.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-437. - Valid license required.

Any person who connects an irrigation system to the water supply within the town or the town's extraterritorial jurisdiction, commonly referred to as the ETJ, must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30 and required by V.T.C.A., Occupations Code ch. 1903, or as defined by Chapter 365, Title 22 of the Texas Administrative Code and required by V.T.C.A., Occupations Code ch. 1301.

*Exemptions.* A property owner is not required to be licensed in accordance with V.T.C.A., Occupations Code tit. 12, § 1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344 regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention and isolation valves. The town may, at any point, adopt more stringent requirements for a home or property owner who installs an irrigation system. See V.T.C.A., Occupations Code § 1903.002 for other exemptions to the licensing requirement.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-438. - Permit required.

Any person installing an irrigation system within the territorial limits or extraterritorial jurisdiction of the town is required to obtain a permit from the town's building safety division of the community development department. Any plan approved for a permit must be in compliance with the requirements of this chapter.

*Exemptions.*

- (1) An irrigation system that is that an on-site sewage disposal system, as defined by V.T.C.A., Health and Safety Code § 355.002; or
- (2) An irrigation system used on or by an agricultural operation as defined by V.T.C.A., Agriculture Code § 251.002.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-439. - Backflow prevention methods and devices.

- (a) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or the Uniform Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.
- (b) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow:
  - (1) An air gap may be used if:
    - a. There is an unobstructed physical separation; and

- b. The distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.
- (2) Reduced pressure principle backflow prevention assemblies may be used if:
  - a. The device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and
  - b. Drainage is provided for any water that may be discharged through the assembly relief valve.
- (3) Pressure vacuum breakers may be used if:
  - a. No back-pressure condition will occur; and
  - b. The device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.
- (4) Atmospheric vacuum breakers may be used if:
  - a. No back-pressure will be present;
  - b. There are no shutoff valves downstream from the atmospheric vacuum breaker;
  - c. The device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;
  - d. There is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and
  - e. A separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve, between the valve and all the emission devices that the valve controls.
- (c) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.
- (d) If there are no conditions that present a health hazard, double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and test cocks are used for testing only.
- (e) If a double check valve is installed below ground:
  - (1) Test cocks must be plugged, except when the double check valve is being tested;
  - (2) Test cock plugs must be threaded, watertight, and made of nonferrous material;
  - (3) A y-type strainer is installed on the inlet side of the double check valve;
  - (4) There must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and
  - (5) There must be space on the side of the double check valve to test and repair the double check valve.
- (f) If an existing irrigation system without a backflow-prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.
- (g) If an irrigation system is connected to a potable water supply through a double check valve, pressure vacuum breaker, or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

- (h) The irrigator shall ensure the backflow prevention device is tested by a licensed backflow prevention assembly tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-440. - Specific conditions and cross-connection control.

- (a) Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.
- (b) Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap. Reduced pressure principle backflow prevention assemblies shall be tested upon installation and annually thereafter.
- (c) If an irrigation system supplied by any source other than the public water supply is installed, whether connected to the public supply or not, a reduced pressure principle backflow prevention device must be installed immediately (within five feet) downstream of the public water supply point meter assembly.
- (d) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.
- (e) If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:
  - (1) All irrigation piping and valves must meet the separation distances from the on-site sewage facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);
  - (2) Any connections using a private or public potable water source that is not the town's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and
  - (3) Any water from the irrigation system that is applied to the surface of the area utilized by the on-site sewage facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the on-site sewage facilities system from operating effectively.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-441. - Water conservation.

All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the definitions section of this article.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-442. - Irrigation plan design: minimum standards.

- (a) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation

system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

- (1) Diminish the operational integrity of the irrigation system;
  - (2) Violate any requirements of this article; and
  - (3) Go unnoted in red on the irrigation plan.
- (b) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.
- (c) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:
- (1) The irrigator's seal, signature, and date of signing;
  - (2) All major physical features and the boundaries of the areas to be watered;
  - (3) A north arrow;
  - (4) A legend;
  - (5) The zone flow measurement for each zone;
  - (6) Location and type of each:
    - a. Controller; and
    - b. Sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);
  - (7) Location, type, and size of each:
    - a. Water source, such as, but not limited to a water meter and point(s) of connection;
    - b. Backflow prevention device;
    - c. Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;
    - d. Valve, including but not limited to, zone valves, master valves, and isolation valves;
    - e. Pressure regulation component; and
    - f. Mainline and lateral piping.
  - (8) The scale used; and
  - (9) The design pressure.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-443. - Design and installation: minimum requirements.

- (a) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.
- (b) *Spacing.*
  - (1) The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.
  - (2) New irrigation systems shall not utilize above ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-

up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.

- (3) Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.
- (c) *Water pressure.* Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.
- (d) *Piping.* Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.
- (e) *Irrigation zones.* Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.
- (f) *Matched precipitation rate.* Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.
- (g) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.
- (h) *Master valve.* When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.
- (i) *PVC pipe primer solvent.* All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC cement in accordance with the International Plumbing Code (Section 605).
- (j) *Rain or moisture or freeze shut-off devices or other technology.* All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of freezing weather or moisture or rainfall. Freeze, rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of freezing weather or moisture or rainfall.
- (k) *Isolation valve.* All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.
- (l) *Depth coverage of piping.* Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.
  - (1) If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.
  - (2) If a utility, manmade structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.
  - (3) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

- (m) *Wiring irrigation systems.*
- (1) Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.
  - (2) Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.
  - (3) Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.
  - (4) Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.
- (n) *Water contained within the piping of an irrigation system is deemed to be nonpotable.* No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.
- (o) Beginning January 1, 2011, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not on-site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-444. - Completion of irrigation system installation.

Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

- (1) A final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;
- (2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:
  - a. The manufacturer's manual for the automatic controller, if the system is automatic;
  - b. The number and labeling of all zones shall be listed, and a copy of this list shall be placed within the controller;
  - c. A seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;
  - d. A list of components, such as the nozzle, or pump filters, and other such components; that require maintenance and the recommended frequency for the service; and

- e. The statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."
- (3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include:
- (4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-445. - Maintenance, alteration, repair, or service of irrigation systems.

- (a) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.
- (b) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.
- (c) Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).
- (d) When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-446. - Reclaimed water.

Reclaimed water may be utilized in landscape irrigation systems if:

- (1) There is no direct contact with edible crops, unless the crop is pasteurized before consumption;
- (2) The irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;
- (3) The irrigation system is installed using purple components;
- (4) An irrigation system supplied by reclaimed water is approved, a reduced pressure principle backflow assembly shall be installed on the domestic water supply within five feet of the meter assembly, or as approved by the water purveyor, and tested upon installation and annually thereafter;
- (5) A minimum of an eight-inch by eight-inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER - DO NOT DRINK" and "AGUA DE RECUPERACION - NO BEBER"; and
- (6) Backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the town's water provider.



(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-447. - Advertisement requirements.

All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI \_\_\_\_\_" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-448. - Duties and responsibilities of town inspectors.

A town inspector shall enforce the ordinance of the town, and shall be responsible for:

- (1) Verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;
- (2) Inspecting the irrigation system;
- (3) Determining that the irrigation system complies with the requirements of this chapter;
- (4) Determining that the appropriate backflow prevention device was installed, tested, and test results provided to the town;
- (5) Investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and
- (6) Maintaining records according to this chapter.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-449. - Items not covered by this article.

Any item not covered by this article and required by law shall be governed by the Texas Occupations Code, the Texas Water Code, Title 30 of the Texas Administrative Code, and any other applicable state statute or Texas Commission on Environmental Quality Rule.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-450. - Fees.

The fee for this permit for each individual residential irrigation system shall be \$185.00 payable to the Town of Little Elm and submitted to the building safety division at the time of application. The nonresidential fee for each individual irrigation system will be \$250.00 for the first controller, an additional \$175.00 for a second controller, with the total not to exceed \$500.00 for any individual system and shall be submitted likewise. This fee shall include plan review and approval and inspections. Seventy-five dollars will be charged for all failed inspections. This fee may increase in the future, per the community development comprehensive fee schedule.

(Ord. No. 1030, § 2, 12-21-2010)

Sec. 102-451. - Enforcement.

- (a) The town shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this

Code, or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.

- (b) Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a class C misdemeanor, punishable by a fine of up to \$2,000.00.
- (c) Nothing in this chapter shall be construed as a waiver of the town's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:
  - (1) Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and
  - (2) Other available relief.

(Ord. No. 1030, § 2, 12-21-2010)

Secs. 102-452—102-475. - Reserved.

#### ARTICLE X. - WATER WELL DRILLING

Sec. 102-476. - Definitions.

*Approved water supply source* means Little Elm's water system.

*Backflow* means the reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of a potable water supply from any sources other than an approved water supply source.

*Backflow prevention assembly tester* means an individual licensed in accordance with Texas Commission on Environmental Quality (TCEQ) rules, as amended, for the purpose of testing backflow prevention assemblies and registered with the Town of Little Elm as a backflow prevention assembly tester.

*Building official* means the officer or other designated authority charged with the administration and enforcement of this article or his or her designee, which may include members of other town departments as determined by the building official.

*Construction permit* means a permit issued by the town to a well driller licensed by the state to construct, install, repair or overhaul a water well.

*Cross-connection* means a point in the plumbing system where the public water supply is connected directly, or has the potential of being connected, to a source of nonpotable substance that is not part of the potable water supply, including water wells. Any actual or potential physical connection between a potable water line and any pipe, vessel or machine containing a nonpotable fluid, such that it is possible for the nonpotable fluid to enter into the potable water system by backflow. This connection may be temporary or permanent, potential or actual, indirect or direct.

*Director of public works* means the Director of Public Works for Little Elm or his or her designee.

*Existing well* means a water well or water system which had been installed prior to the effective date of this article.

*Nonpotable water* means a water supply, which has not been approved for human consumption by TCEQ and the town.

*Person* means any individual, firm, partnership, association, corporation, company or organization of any kind.

*Potable water* means any public water supply, which has been investigated and approved by TCEQ and the town as satisfactory for drinking, culinary and domestic purposes.

*Premises or property* means any property real, improved or personal that is connected to a Town of Little Elm approved water supply source.

*Public sewer* means a common sewer directly controlled by public authority.

*Reduced pressure principal backflow prevention assembly (RPZ)* means a backflow prevention assembly consisting of two independently acting check valves, internally force-loaded to a normally closed position and separated by an intermediate chamber (or zone) in which there is an automatic relief means of venting to the atmosphere, internally loaded to a normally open position between two tightly closing shutoff valves and with a means for testing for tightness of the checks and opening of the relief means.

*Sanitary sewer* means a pipe which carried wastewater and excludes storm, surface water and groundwater.

*Septic tank* means a watertight receptacle which receives the discharge of a drainage system or part thereof, which is designated and constructed so as to separate solids from the liquid, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank through a drain field, disposal or perforated piping.

*Testing or reporting deficiencies* means incomplete, or inaccurate backflow prevention assembly test results or reports filed with the town pursuant to this article, use of inaccurate gauges; or the use of improper operational certification methods.

*Town engineer* means the person designated as the town engineer and registered as a professional engineer in the State of Texas.

*Water main* means a water distribution pipe for public or community use.

*Water well* means bored wells, dug wells and driven wells developed into the underground soils, which are to produce water for private use. Water wells are prohibited unless approved under the provisions of this article.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-477. - Permits and licenses.

- (a) *State license required.* Construction of water wells shall be performed only by those holding a valid water well driller's license issued by the State of Texas. The state license number shall be displayed during construction at the site of the work. The number shall be clearly readable from the nearest traveled public roadway. Water well drillers must hold a current contractor registration with the town and be in good standing. In addition, the approved permit issued by the town shall be displayed during construction at the site of the work and remain on-site until a final inspection is obtained.
- (b) *Construction permit and registration required.* Persons who wish to construct, repair or overhaul water wells in the town must obtain the necessary contractor registration and construction permits as provided for in this article and other applicable ordinances. "Overhaul" and "repair" means work that is not considered routine maintenance. All workmanship and materials shall meet the requirements of this article in regard to the drilling, construction, location and operations of such wells and systems. The forms, plans and other information and documentation required to be provided under this article may be approved by the building official or his or her designees only if all provisions of this article are complied with.
- (c) *Construction permit not required.* Construction permits are not required for routine maintenance of water wells. It is the well driller's and well owner's responsibility to notify the building official of routine maintenance prior to the maintenance being performed, and that official, or his designee, will determine if the work to be done may be classified as routine maintenance.

- (d) *Construction permits not transferable.* Each construction permit issued under this article shall be specific to the property and shall be obtained by the well driller. No such construction permit shall be assigned or transferred to another person, and no person shall permit another person to obtain a construction permit in his/her name or permit any new well construction, repair or overhaul work to be performed under his/her construction permit other than a person authorized to do the same.
- (e) *Issuance of construction permit.* The building official, or his or her designee, shall issue all construction permits in accordance with the provisions and requirements of this article and other applicable ordinances. Incomplete applications or applications that do not meet the requirements of this article shall be denied. The decision of the building official shall be final. All applications for permits shall be submitted using a standard form issued by the building inspection department. The application shall provide the following information:
  - (1) Company name, address and telephone number of the well driller;
  - (2) Well driller's State of Texas license number;
  - (3) Name, address, legal description and telephone number of property owner;
  - (4) Company name and State of Texas license number of the assigned electrical contractor who must be registered to work in the Town of Little Elm;
  - (5) Company name and State of Texas license number of the assigned plumbing contractor who must be registered to work in the Town of Little Elm;
  - (6) Company name and State of Texas license number of the assigned irrigation contractor (if applicable) who must be registered to work in the Town of Little Elm;
  - (7) A plan of the property that shows the location of the proposed water well, all buildings, functioning septic tanks, drain fields and other significant structures. The plan shall also show the location of structures and adjacent property if within ten feet of the property line. All setbacks and dimensions shall be shown to be in conformance with section 102-490 of this article;
  - (8) Any other information deemed necessary by the town.
- (f) *Duration of construction permits.* Every construction permit issued under the provisions of this article shall expire 180 days after the date issued. In every case where a permit is expired, a new permit shall be obtained before any work is resumed. Any work performed pursuant to an expired permit shall be considered work performed without a permit.
- (g) *False statement or bad faith.* Any person who shall willfully make any false statement in order to obtain a construction permit shall be guilty of a misdemeanor and subject to the penalty provided herein.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-478. - Offenses and penalties related to permits and licenses.

A person commits an offense if he recklessly or negligently violates or fails to comply with the following subsections of this article:

- (1) Section 102-477, subsections (a), (b), (c), (d), (f), (g).

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-479. - Fees.

- (a) Permit and inspection fees. The permit and inspection fees provided in this article shall be paid to the town before the issuance of a permit and before any work is started. Fees shall not be collected prior to permit approval. Inspection and re-inspection fees shall be in accordance with the town's approved fee schedule, as amended.

- (b) Whenever any work for which a permit is required by this article has been commenced or completed without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work. An investigative fee, in addition to the permit fee, shall be collected whether or not a permit is then subsequently issued. The investigation fee shall be double the amount of the permit fee set by the town's approved fee schedule, as amended. The payment of such investigative fee shall not exempt any person from compliance with all provisions of this article, nor from any penalty prescribed by law.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-480. - Well completion, inspection and testing.

- (a) The building official or his or her designee(s) shall have the right, at reasonable times, to enter the property for the purpose of inspections to insure compliance with this article.
- (b) Upon completion of the well, the well driller shall immediately furnish the building official with a copy of the driller's report. Any well that is not completed shall be sealed and considered a plugged or an abandoned well in accordance with rules, regulations and statutes of the State of Texas.
- (c) The owner of a well shall have a backflow assembly test completed, immediately upon installation, annually and after any repair to the assembly. Only a state licensed backflow prevention assembly tester registered with the town shall perform the test. A report, on a town approved form, shall be submitted immediately to the department of public works upon the completion of each test.
- (d) Each completed backflow assembly test form, together with the records of such tests, repairs, or replacements, shall be received by the public works department within ten calendar days after the testing, repair, or replacement by the licensed tester. If an assembly fails, the water supply shall not be restored until the assembly is repaired or replaced and retested and passes the test. A well shall not be operated without having passed the backflow assembly test.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-481. - Offenses and penalties related to testing, completion and inspections.

A person commits an offense if he recklessly or negligently:

- (1) Fails to obtain any permit described in this article.
- (2) Fails to permit an inspection of the well pursuant to subsection 102-480(a).
- (3) Fails to provide the building official with a copy of the driller's report pursuant to subsection 102-480(b).
- (4) Fails to seal and plug an incomplete or abandoned well as required by subsection 102-480(b).
- (5) Fails to provide a copy of the backflow assembly test report within ten calendar days as required by subsection 102-480(d).
- (6) Performs a backflow assembly test without being licensed and registered as required in subsection 102-480(c).
- (7) Operates a well without a current successful backflow test report on file with town.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-482. - Construction requirements.

- (a) *Electrical.* One hundred twenty volt ground fault circuit interrupting ("GFCI") receptacle shall be installed immediately adjacent to the well equipment to allow for maintenance work on the equipment or the use of a freeze protection device.
- (b) *Freeze protection.* Adequate provisions must be made to protect piping from freezing by insulation or heat or both on all water wells. The RPZ relief valve must not be enclosed.
- (c) *Backflow protection.* An RPZ is the only approved backflow prevention assembly allowed on properties located within Little Elm, its ETJ or other premises. The RPZ is to be installed on all properties which contain a well.
- (d) *Casing.* A casing of steel or other approved material shall be provided to prevent caving of the formations penetrated and also to ensure protection of water supply from contamination by water from shallow strata. The wall shall be cased from the bottom of the drilled hole to 24 inches above the finish grade or more if required to keep surface water from entering casing. The well casing shall be cemented in place and sealed to protect the underground water formation from potential contamination resulting from surface water or individual waste disposal systems (i.e., septic tanks).
- (e) *Well seal.* The annular space between the drilled hole and the well casing shall be sealed with concrete or grout for a depth of at least ten feet above the water producing formation. The casing shall be covered at the ground with a concrete slab no less than 24 inches by 24 inches by 12 inches in thickness. The top of the slab shall protrude six inches above finished grade and shall be sloped away from the casing. The top of the casing shall be provided with a suitable well seal to prevent contamination of the well. If a vent is provided on the casing, it shall be equipped with an elbow turned downward and screened with a 16 (gauge)-mesh screen.
- (f) *Abandonment of wells.* Permanently abandoned wells shall be plugged per TCEQ requirements and a compliance report shall be submitted to the director of public works. Abandoned wells shall not be used for the disposal of wastewater, septic tank effluent, or other wastes.
- (g) *Screening.* The water bearing formation shall be screened to control, among other similar conditions, the flow or production of sands and formation materials.
- (h) *Compliance with Texas Department of Licensing and Regulation (TDLR) rules and regulations.* Permittee shall comply with any and all TDLR rules and regulations and other governing state statutes.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-483. - Offenses and penalties related to construction requirements.

A person commits an offense if he recklessly or negligently fails to comply with any of the requirements in section 102-482, subsections (a) through (h).

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-484. - Applicability of state regulations.

The regulations of the TDLR and the Texas Water Well Drillers Act, as existing or as may be amended as they pertain to the construction of water wells, shall be and are hereby incorporated into this article and must be strictly complied with.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-485. - Commercial use.

It shall be unlawful for a commercial water well to be used for domestic (household) use or for consumption by the public.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102.486. - Irrigation use only.

Any water well must be constructed in accordance with the provisions of this article and may be used only for irrigation purposes. It shall be unlawful for a water well to be used for domestic (potable water) use.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-487. - Location.

- (a) Water wells shall be constructed no closer to property lines or buildings than the following distances:
  - (1) Not allowed within the front yard setback;
  - (2) Not allowed within the side yard setback;
  - (3) Rear property lines: Ten feet;
  - (4) Buildings: Ten feet;
  - (5) Power lines: 30 feet;
  - (6) Functioning septic tanks and drain fields: 150 feet;
  - (7) Functioning septic tanks and drain fields: 50 feet; if well is concrete cased;
  - (8) Functioning septic spray heads/soil absorption area: 80 feet;
  - (9) Barns and animal pens: 150 feet; and
  - (10) Permanent derricks and towers: No closer than 40 feet to side property lines.
- (b) Existing wells currently in use as of the effective date of this article do not have to comply with the location restrictions in subsection 102-487(a). Any existing well that is not in use as of the effective date of this article may not be reactivated unless it is in compliance with the location restrictions in subsection 102-487(a).
- (c) The operation of water wells shall be subject to any and all ordinances or statutes regulating noise.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-488. - Offenses and penalties related to location.

- (a) A person commits an offense if he recklessly or negligently fails to comply with any of the location restrictions in subsection 102-487(a). Each distinct violation of a distance restriction shall be considered a separate offense.
- (b) A person commits an offense if he recklessly or negligently reactivates an existing well in violation of subsection 102-487(b).

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-489. - Debris, etc., on public rights-of-way.

It shall be unlawful for any debris, dirty water, mud or any other refuse to be dumped or discharged onto public rights-of-way. The drilling operation of any well shall control and dispose of, among other things, all drilling, cuttings, mud and water so as not to create a mud pit or disposal operation at the well site.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-490. - No cross-connections allowed.

It shall be unlawful for any person to connect a water well to the approved water supply system for the town. This shall include both sewage and potable water sources of the town's water supply.

(Ord. No. 1078, § 2, 10-18-2011)

Sec. 102-491. - Enforcement.

The building official and the public works department are responsible for the enforcement of this article.

(Ord. No. 1078, § 2, 10-18-2011)

Secs. 102-492—102-520. - Reserved.

#### ARTICLE XI. - MUNICIPAL DRAINAGE UTILITY SYSTEM<sup>[7]</sup>

Footnotes:

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**Editor's note**— Ord. No. 1087, § 2, adopted Nov. 1, 2011, set out provisions intended for use as art. X, §§ 102-476—102-484. Due to said sections already in use, these provisions have been included, at the editor's discretion, as art. XI, §§ 102-521—102-529, as set out herein.

Sec. 102-521. - Adoption of Act.

The Municipal Drainage Utility Systems (Act) (V.T.C.A., Local Government Code ch. 552, subch. C), is hereby adopted and shall be fully implemented as provided by the Act and by the town council; and the drainage of the town is hereby found to be a public utility within the meaning of the Act.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-522. - Drainage service provided.

The town will provide stormwater drainage for all real property within its boundaries upon payment of the determined drainage charges, as defined in the Act, and excluding certain exempted real property, and that the fees, assessments, and charges will be based on nondiscriminatory, reasonable, and equitable terms.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-523. - Billing for service.



The town is hereby authorized to bill the drainage charges incurred as a result of the adoption of the Act and through the establishment of the municipal stormwater utility system. The stormwater utility fee shall be separately identified from other public utility billings.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-524. - Authority to levy charges.

The town may levy a schedule of drainage charges upon satisfaction of the procedural requirements provided in the Act and passage of this article.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-525. - Exemption authorized.

The town is authorized to exempt certain entities or persons from all ordinances, resolutions, and rules which the town may adopt from time to time in connection with the adoption of the Act and the establishment of its municipal stormwater utility system.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-526. - Rates.

- (a) The rates as provided for in section 102-529 (Municipal Stormwater Utility System Fee Schedule) are hereby established and shall be collected through the town's bill for public utilities pursuant to V.T.C.A., Local Government Code, ch. 552, subch. C, including, without limitation, § 580.003, and other applicable law.
- (b) The rates established above apply to the accounts maintained by the town for utility services.
- (c) The income of the stormwater utility fee shall be segregated and completely identifiable in the town accounts. The monies received from utility drainage charges shall be used only for purposes that are directly or indirectly related to the municipal stormwater utility system.
- (d) The town shall not require a deposit for drainage charges as a precondition to accepting surface flow from benefited property into the town's drainage utility system.

All real property of the town will be provided with drainage service on payment of drainage charges.

- (e) All billings, credits, exemptions and other procedures relating to this charge shall be subject to the provisions of V.T.C.A., Local Government Code, ch. 552, subch. C, including, without limitation, § 580.003.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-527. - Appeals.

- (a) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the town for other utility billing disputes.
- (b) Appeals for the following reasons shall be directed to the public works director or his designee for evaluation and determination.
  - (1) Exempt property has been assessed a stormwater utility fee.

- (2) Stormwater utility fee for an individual property is based on an incorrect determination of the property's contribution to the stormwater system, as established in section 102-529 (Municipal Stormwater Utility Fee Schedule).
- (3) Stormwater utility fee for an individual property is assessed on more than one utility account.
- (4) Stormwater utility fee is assessed to individual property outside the town's jurisdictional area.
- (c) The public works director or his designee shall render a written decision on such appeals within 30 days after receiving a written notice of appeal from the landowner.
- (d) Any landowner who disagrees with the decision of the public works director or his designee may appeal such decision to the town council. The decision of the town council shall be final.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-528. - Penalties.

The stormwater utility fee is delinquent if payment for such fee and/or full payment on the utility account is not received by the due date and a delinquent account will be levied a ten percent penalty on the entire amount due. If full payment is not received within ten days after the due date, the water utility service will be disconnected and a reconnect fee will be assessed before service will be restored as provided in sections 102-141 and 102-168 of the Town of Little Elm's Code of Ordinances.

(Ord. No. 1087, § 2, 11-1-2011)

Sec. 102-529. - Municipal stormwater utility system fee schedule.

The following rates are hereby established and shall be collected through the town's bill for public utilities pursuant to V.T.C.A., Local Government Code, ch. 552, subch. C, including, without limitation, section 580.003, and other applicable law:

- (1) Equivalent residential unit.
  - a. Rates shall be charged based on a property's contribution to the public stormwater utility system. The contribution shall be based on the impervious area for the property.
  - b. One equivalent residential unit (ERU) is defined as 3,687 square feet of impervious area. ERUs shall be calculated in whole increments, with no fee maximum.
  - c. The rate per ERU is \$3.35 per month.
  - d. Single-family residential properties will be assessed one ERU per month.
  - e. All other nonexempt properties will be assessed based on their measured impervious area at a rate of \$3.35 per ERU per month.
  - f. A minimum charge of one ERU shall be applied monthly to each nonexempt property, regardless of classification.
- (2) Tax-exempt religious institutions are exempt from the municipal stormwater utility fee, in accordance with V.T.C.A., Local Government Code § 552.053.
- (3) The rates established above apply to the accounts maintained by the town for public utility services.
- (4) All billings, credits, exemptions and other procedures relating to this charge shall be subject to the provisions of V.T.C.A., Local Government Code, including, without limitation, §§ 552.053 and 580.003.

(Ord. No. 1087, § 2, 11-1-2011)

Secs. 102-530—102-555. - Reserved.