

ORDINANCE NO. 20-03

AN ORDINANCE OF THE CITY OF DANBURY, TEXAS, PROVIDING FOR CERTAIN UTILITY AND GARBAGE FEES, RATES, UTILITY REGULATIONS, DEFINITIONS, TEMPORARY UTILITY SERVICES FOR TESTING, PERSONS LIABLE FOR UTILITY FEES, PAYMENTS, DISCONTINUANCE AND RESUMPTION OF UTILITY SERVICE, FEE ADJUSTMENTS, AND RESPONSIBILITY FOR LOST WATER; PROVIDING FOR APPLICATIONS FOR UTILITY SERVICES, CHANGES OF ADDRESS, UTILITY DEPOSITS, AND LANDLORD'S UTILITY ACCOUNTS; PROHIBITING WATER WELLS, CERTAIN CONNECTIONS, AND LEAD IN PLUMBING; REQUIRING DISCONNECTION OF WATER WELLS, PLUMBING, AND EQUIPMENT THAT COULD NOT LAWFULLY BE CONNECTED AFTER THE EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING FOR BACKFLOW PREVENTION DEVICES, INSTALLATION, MAINTENANCE, AND TESTING; PROVIDING FOR REGISTRATION OF BACKFLOW TESTING PERSONNEL; PROHIBITING OCCUPANCY OF STRUCTURES AND PREMISES WITH CONNECTIONS, PLUMBING, OR EQUIPMENT THAT WOULD BE UNLAWFUL IF CONNECTED AFTER THE EFFECTIVE DATE OF THIS ORDINANCE; PROHIBITING OCCUPANCY OF STRUCTURES AND PREMISES THAT VIOLATE THIS ORDINANCE OR THAT LACK A FUNCTIONING AND LAWFUL SOURCE OF SEWAGE TREATMENT AND OF POTABLE WATER; PROVIDING NONLIABILITY FOR CONTINUITY OF SERVICE, INSPECTIONS, AND NOTICES OF VIOLATIONS; PROHIBITING UNLAWFULLY TAPPING AND TURNING ON UTILITIES; PROHIBITING UNLAWFULLY RECEIVING UTILITY SERVICE; PROHIBITING UNLAWFULLY DAMAGING METERS, LOCKS, OR OTHER CITY UTILITY EQUIPMENT; REQUIRING THE CUSTOMER TO BE PRESENT WHEN WATER IS TURNED ON; PROHIBITING SALE OF WATER OR SEWER SERVICES; PROVIDING OFFENSES, CRIMINAL PENALTIES OF UP TO \$500 PER DAY PER VIOLATION, CIVIL REMEDIES, CUMULATIVE REMEDIES, NON-ELECTION OF REMEDIES, NONWAIVER BY THE CITY OF RIGHTS AND REMEDIES, AND NONWAIVER OF IMMUNITY; RESERVING THE RIGHT TO AMEND THIS ORDINANCE; AMENDING SECTION 2. FEES AND RATES; SUPERCEDING, ORDINANCE NO. 19-18 EXCEPT AS TO VIOLATIONS COMMITTED BEFORE THE EFFECTIVE DATE OF THIS ORDINANCE AND REMEDIES THEREFOR; PRESERVING OTHER ORDINANCES AND PROVIDING FOR CONFLICTS IN TERMS; AND PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DANBURY, TEXAS, DULY ASSEMBLED:

SECTION 1. Definitions

- a. "Business Customer" herein shall mean any customer other than a Residential Customer.

- b. "Customer" herein shall mean each person who either: (1) signs an application for any Utility Services from the City; (2) or has a utility account with the City.
- c. A Customer outside the City limits shall be defined as a Customer for utility services concerning premises at a service address outside the City limits.
- d. "Fees" herein shall mean not only all fees but also all rates, concerning utility services under this ordinance or any other ordinance of the City.
- e. "Rates" herein shall mean not only all rates, but also all fees, concerning utility services under this ordinance or any other ordinance of the City.
- f. "Housing Unit" or "Residential Unit" herein shall mean each accommodation designed, built, adapted, or used for a single family residential unit, regardless whether the occupants are related, for example a single family house, a single unit in an apartment complex, or half of a duplex.
- g. "Nonresidential Unit" herein shall mean each business space designed, built, adapted, or used for a separate business or other nonresidential entity, enterprise, or occupant, whether commercial or not, provided that such space has at least one plumbing connection or fixture that is connected directly or indirectly to the City water or sewer system. Some examples of a Nonresidential Unit are a stand-alone nonresidential building, a single rental space in a strip center, or a separately rented suite in an office building.
- h. "Residential Customer" herein shall mean any customer concerning utility services to a premises used by the customer or any other person for residential purposes.
- i. "This ordinance" herein shall mean not only this ordinance, but also any amendment or replacement hereof.
- j. "Utilities" or "Utility Services" herein shall mean sewage treatment, water, garbage collection, and all related services and products.
- k. Utility Department Head. Any reference, in this ordinance or in any other ordinance concerning utilities, to the Utility Department Head shall mean the Superintendent of Public Works if there is a vacancy in the position of Utility Department Head; and any such reference shall mean the Mayor if there are vacancies in the positions of both the Utility Department Head and Superintendent of Public Works.

SECTION 2. Fees and Rates

- a. **Fee for Turning Water On.** There shall be an upfront fee of \$25.00 to turn on the water to any premises. This fee shall apply to turning the water on initially, turning the water back on after reconnection, turning the water on for testing purposes, and all other circumstances of turning on the water to any premises. However, the Utility Department Head shall have discretion to waive this fee if the water is turned off temporarily through no fault of the customer, for example in a freeze.
- b. **Fee to Commence Garbage Collection Only.** There shall be a \$10.00 fee to begin service for each customer who obtains garbage collection service but not water and sewer service. This fee is in addition to the required \$30.00 deposit referenced in Section 13(d).
- c. **Returned Check/Credit Card Fee.** There shall be a \$30.00 fee added for each check and/or credit card payment returned unpaid for any fee under this ordinance or other fee for utilities. The privilege of paying city bills by personal check and/or credit card will be suspended for a period of six (6) months to an individual who has had two personal checks and/or credit card transactions returned to the city marked unpaid for any reason within a twelve (12) month period. If an individual has check writing and/or credit card privileges re-instated and has a third (3rd) check and/or credit card transaction returned to the city marked as unpaid within 12 (twelve) months of the date of re-instatement then check writing and/or credit card transaction privileges will be suspended indefinitely.
- d. **Tapping Fees.** The tapping fee for a standard $\frac{3}{4}$ or 1 inch water tap fee shall be \$750. The tapping fee for a standard 4 inch sewer tap fee shall be \$750. Larger taps shall require additional fees, to be determined by the Utility Department Head.
- e. **Data Log Download Fee.** There is no fee for the first meter data log download, as distinguished from an ordinary monthly meter reading, at the request of the customer. The fee for each subsequent meter data log download at the request of that customer shall be \$53.32, to cover one-third of the cost of obtaining and installing a replacement of the equipment that allows such a download, because that equipment must be replaced after four such downloads.

SECTION 3. Temporary Service for Testing

- a. A customer may arrange for the water and sewer to be turned on for testing for period of ten days or less.

- b. The normal fee for turning on the water shall apply.
- c. In addition, the fee for water and sewer under this section shall be charged at the regular water/sewer rate.
- d. The fee for sewage treatment under this section shall be \$0.09 per 100 gallons of water or portion thereof, regardless whether the water goes into the sewage treatment plant.
- e. If any garbage is set out for collection at the address being tested, then the usual garbage charges for the entire month shall be due.

SECTION 4. Utility and Garbage Rates

The following fees and rates are hereby adopted and shall be charged and paid for each premises connected to the city water system, except for periods when utility service has been discontinued. Any reference to a fee per 100 gallons shall mean per 100 gallons or fraction thereof.

a. **Business and Residential Monthly Rates Within City Limits**

WATER

Base rate (up to 1,500 gal.), including the \$1.00 charge for the Disaster Recovery Fund	\$22.71 per month
Usage between 1,501 – 5,000 gal.	\$ 0.12 per 100 gal.
Usage between 5,001 – 10,000 gal.	\$ 0.14 per 100 gal.
Usage over 10,000 gal.	\$ 0.16 per 100 gal.

SEWER

Base rate (up to 1,500 gal.)	\$29.24 per month
Usage between 1,501 – 5,000 gal.	\$ 0.09 per 100 gal.
Usage between 5,001 – 10,000 gal.	\$ 0.10 per 100 gal.
Usage over 10,000 gal.	\$ 0.11 per 100 gal.

References to the number of gallons for sewer charges mean the number of gallons of water on that account.

ADDITIONAL WATER AND SEWER CHARGE FOR ADDITIONAL HOUSING OR NONRESIDENTIAL UNITS ON SAME METER

Rate for each additional housing unit or nonresidential unit (after the first unit) on the same meter: \$24.71 per month

See subsections c and d below.

METER REPLACEMENT ACCRUAL FEE \$1.88 per month

This fee is to defray the City's cost of replacing meters and related equipment due to ordinary wear and tear, not to reduce any person's liability for damaging a meter or other equipment.

GARBAGE

Rate excludes sales tax \$20.30 per month

b. **Business and Residential Monthly Rates Outside City Limits**

ADDITIONAL FEE \$18.72 per month

WATER

Base rate, including \$1.00 charge for the Disaster Recovery Fund (up to 1,500 gal.) \$41.64 per month

Usage between 1,501 – 5,000 gal. \$ 0.24 per 100 gal.

Usage between 5,001 – 10,000 gal. \$ 0.29 per 100 gal.

Usage over 10,000 gal. \$ 0.33 per 100 gal.

SEWER

Base rate (up to 1,500 gal.) \$55.14 per month

Usage between 1,501 – 5,000 gal. \$ 0.18 per 100 gal.

Usage between 5,001 – 10,000 gal. \$ 0.20 per 100 gal.

Usage over 10,000 gal. \$ 0.22 per 100 gal.

References to the number of gallons for sewer charges mean the number of gallons of water on that account.

ADDITIONAL WATER AND SEWER CHARGE FOR ADDITIONAL HOUSING OR NONRESIDENTIAL UNITS ON SAME METER

Rate for each additional housing unit or nonresidential unit (after the first unit) on the same meter: \$24.71 per month

See subsections c and d below.

METER REPLACEMENT ACCRUAL FEE \$3.76 per month

This fee is to defray the City's cost of replacing meters and related equipment due to ordinary wear and tear, not to reduce any person's liability for damaging a meter or other equipment.

GARBAGE

Rate excludes sales tax \$20.30 per month

The only customers outside the city limits who are eligible for garbage collection are those with City garbage collection accounts in effect continuously at all times on and after June 30, 2016.

c. Additional Water And Sewer Charge For Additional Housing Or Nonresidential Units On Same Meter

1. Base Rate on First Unit. In every month, the customer also must pay the Base Rate for water and sewer for the first housing or nonresidential unit on that meter.

2. Phase In Period. The additional water and sewer charge for each additional housing or nonresidential unit on the same meter, provided by subsections a and b above, shall be phased in at a rate of four additional units per month, starting with the bill for the first utility usage period beginning after April 16, 2019.

For example, an apartment complex in the city limits with 11 *total* units would pay the following amounts in the following months for the fee for *additional* units:

Month	# Additional Units @ \$24.71/Mo.	Additional Fee
1	4	\$98.84
2	8	\$197.68
3 and after	10	\$247.10

3. Charges for Quantities Above Base Rate. The charges for additional water and sewer use, above the quantity in the Base Rate, are still determined on the quantity used per meter, not per housing or nonresidential unit.

d. Example Calculation of Water and Sewer Charges

The following is an example calculation of the monthly water and sewer fees for an apartment complex in the city limits with 11 total units on a single meter, after the phase in period, using 17,000 gallons of water per month on the meter:

\$22.71 Base Rate for water
 \$29.24 Base Rate for sewer
 \$247.10 Additional fee for 10 additional units @ \$24.71 per additional unit

Additional water usage fees:

\$4.20 3,500 gal. @ \$.12 per gal.
 \$7.00 5,000 gal. @ \$.14 per gal.
 \$11.20 7,000 gal. @ \$. 16 per gal.
 \$22.40 \$22.40 Additional water usage fees

Additional sewer usage fees:

\$3.15 3,500 gal. @ \$.09 per gal.
 \$5.00 5,000 gal. @ \$.10 per gal.
 \$7.70 7,000 gal. @ \$.11 per gal.
 \$15.85 \$15.85 Additional sewer usage fees

\$1.88 Meter Replacement Accrual Fee
\$359.48 Total for water and sewer
Garbage is an additional fee.

SECTION 5. **Reserved**

SECTION 6. **Persons Liable for Fees and Rates**

Each Customer shall be jointly and severally liable for fees, rates, and charges on the account for which that person is a Customer.

SECTION 7. **Payments**

- a. **Due Date.** Except as provided in subsection b, all types of utility fees (which shall include garbage fees in all parts of this ordinance) shall be due and payable in full by whichever of the following is later: the nineteenth day of the month in which the bill is sent; or fourteen days after the bill is sent.
- b. Utility payments received before 5:00 p.m. will be posted as received on that day.
- c. **Pay Out Arrangements.** If a person is unable to pay any charges under this ordinance on a timely basis, the person may make an appointment with the Mayor to discuss the possibility of arranging a payout schedule. The Mayor is authorized, but shall never be required, to agree to a payout schedule. However, the Mayor shall not agree to a payment schedule if the Mayor finds, in his or her reasonable discretion, that any of the following elements is not true: (1) the failure to agree to a payout schedule would involve a serious hardship for the customer, (2) the customer did not create the need for the payout schedule, and (3) the payout schedule would not create a hardship for the City.

SECTION 8. **Fee Adjustments**

- a. The Utility Department Head is hereby authorized, but shall never be required, to adjust sewer or water fees of customers of the City, upon a written request by the customer.
 1. A sewer fee adjustment shall not be granted under this section, unless it appears to the reasonable satisfaction of the Department Head that the adjustment is necessary to avoid sewer fees for sewer services that are not used, because the customer uses water for purposes that do not introduce the waste water into the City's sewer treatment facility. The customer must prove to the reasonable satisfaction of the

Department Head that the water in question is not introduced into the sewer treatment facility of the City.

2. A water fee adjustment shall not be granted under this section, unless it appears to the reasonable satisfaction of the Department Head that the adjustment is necessary to avoid water fees for water that was neither used nor obtained by the customer or any other occupant or owner of the premises, through no fault of any of such persons. The customer must prove to the reasonable satisfaction of the Department Head that the water in question was neither used nor obtained by the customer or any other owner or occupant of the premises.
 3. For either a water or a sewer fee adjustment, the request must also prove to a reasonable degree of certainty the quantity of water involved and the time period involved.
- b. The Department Head shall not be required to grant any fee adjustment or waiver under this section. Such fee adjustment or waiver by the Department Head shall require no further action by the City Council.
 - c. A request for a fee adjustment or waiver under this section may be made prospectively or retroactively. However, if a fee adjustment or waiver is made prospectively, then the adjustment or waiver may be revoked or reduced at any time by the Department Head, if the Department Head reasonably believes that some or all of the sewer services in question were used after all, or that some of the water was used or obtained by the customer or an occupant or owner of the premises after all. It shall be the customer's responsibility, at the end of the period to which the prospective fee adjustment or waiver applies, to provide additional proof to the reasonable satisfaction of the Department Head that the services or water actually was not used or obtained. If the customer fails to provide such additional proof, then the Department Head may revoke or reduce the adjustment or waiver, as the Department Head deems reasonable. In the event of any revocation or reduction of any adjustment or waiver under this section, the customer shall pay the fees resulting from such revocation or reduction at the time of such revocation or reduction.
 - d. Any adjustment or waiver under this section shall be in writing, signed by the Department Head, stating the time period to which it applies, and stating the quantity of services and the monetary amount of the adjustment.

- e. This section shall govern any conflicting provisions of any other ordinances.
- f. **Filling Swimming Pool.** A customer who wishes to avoid sewer fees for water used to fill a swimming pool must arrange for the City Utility Department to read the water meter immediately before and after filling the pool. If such meter readings are done, then the customer shall not be charged for sewer fees on the quantity of water used to fill the swimming pool.
- g. A customer shall not receive more than one adjustment per year for water fees under this section.

SECTION 9. Responsibility for Lost Water

The customer is financially responsible for loss of water on the consumer's side of the meter, except to the extent the Utility Department Head determines, in his sole discretion, that such loss is due to negligence on the part of the City.

SECTION 10. Discontinuance and Resumption of Utility Service

- a. Utility services to any premises shall be discontinued for any of the following reasons:
 - 1. Any fees concerning any utility services on that account remain unpaid 10 days after the due date;
 - 2. Any check for any utility services on that account is returned unpaid;
 - 3. Any city utility rule, regulation, or ordinance is violated in connection with the premises;
 - 4. There is any theft of utility services concerning the premises;
 - 5. There is any dangerous condition concerning the utilities at the premises;
 - 6. Occupancy of the premises is unlawful for any reason; or
 - 7. The City does not have reasonable access to any utility meter at the premises.
- b. Utility services shall not be reconnected or resumed until the City has received:
 - 1. full payment of all amounts in any way concerning utility services to that Customer; and

2. any increased deposit required by this ordinance due to nonpayment for other violations.
- c. After discontinuance of utility services for any violation of this ordinance or any other law concerning utilities, only cash or a money order shall be accepted for the deposit, reconnection fee, and any other charges required for reconnection or resumption of utility services.
- d. When this ordinance authorizes this discontinuance of utility services, such discontinuance includes, but is not limited to, any or all of the following:
 1. Turning off and/or locking the water meter;
 2. Removing the water meter and/or the water tap;
 3. Removing the sewer tap;
 4. Discontinuing garbage collection service and/or any other city utility service.
- e. All water meters, water taps, and sewer taps, shall be and remain the property of the City.
- f. If utility service is discontinued or disconnected due to any violation of this ordinance or any other law concerning utilities, and if the violation has not been cured within five days after such discontinuance or disconnection, then:
 1. The account will be closed;
 2. Any deposit on file will be applied to any unpaid amounts;
 3. If the customer requests utility service, then the customer will have to apply for service as a new customer and will have to post a new deposit in the amount required by the law in effect at that time; and
 4. Regardless of any other provision, nothing in this section shall impair any liability of any person for any charges associated with a utility account, and nothing in this section shall entitle any person to obtain utility service without paying any and all amounts that such person owes the City for utility service.
- g. Nothing in this ordinance shall be construed to require a new customer to pay a previous customer's bill in order to obtain utility services.

SECTION 11. Application for Utility Services

- a. The Mayor is authorized to draft and amend from time to time a Notice of Certain Utility Regulations and a Utility Service Application, consistent with this ordinance. Any person requesting utility services from the City shall fill out, sign, and deliver to the City the Notice of Certain Utility Regulations and the Utility Service Application. After the date of this Ordinance, the City shall not commence new utility services or reconnected utility services to a customer who has not signed and delivered to the City the Notice of Certain Utility Regulations and the Utility Service Application. However, said documents are not required to be signed by customers in order to continue receiving service that began before the date of this Ordinance and was not disconnected after the date of this Ordinance.
- b. Any person requesting utility services shall provide a copy of his or her driver's license together with the application for utility services. If a person does not have a driver's license, then an identification card issued by the State of Texas is acceptable. If the person does not have either a driver's license or a state identification card, then the person may execute an affidavit to that effect, and the Utility Department Head may accept other proof of identification.

SECTION 12. Change of Address

A Customer seeking to change his or her utility service from one address to another shall complete, sign, and file with the City Utility Department an application form to be provided by the Utility Department Head.

A Customer seeking to change his or her utility service from one address to another shall also pay whatever additional amount is necessary in order to bring that Customer's utility deposit up to the amount required by law for a new Customer at the time of that transfer.

SECTION 13. Utility Deposit

- a. Every utility Customer of the City shall pay a utility deposit to the City prior to the Customer's premises being connected or reconnected to the water or sewer lines of the City, and prior to the provision of any City utility services to the person's premises, and prior to the transfer of the Customer's utility service from one address to another. The amount of the deposit shall be \$100 if the Customer owns the premises and \$150 if the Customer does not own the premises, unless this ordinance requires a higher deposit.

- b. If utility service to a Customer has been discontinued or disconnected at any address or combination of addresses two or more times in the last four years, then the required deposit shall be twice the amount otherwise required by subsection (1).
- c. If a person seeks to establish, restore, or reopen a utility account, and if that person has failed to pay any fee concerning any utility services to the City for sixty or more days after it was due, then the deposit shall be twice the amount that would otherwise be required under subsection (1).
- d. A Customer who seeks to establish or reestablish trash collection service only shall pay a deposit of \$30.
- e. The City shall have the right, but not the obligation, to apply the deposit to any debt to the City directly or indirectly concerning utilities to that Customer on the account for which the deposit was paid.
- f. Upon written request by the Customer after disconnection of the premises from the City utility systems and discontinuance of City utilities to the premises, the City shall refund any balance of the deposit that remains after application of the deposit as herein provided. The City shall have the right to mail the refund to the Customer's address stated on the Utility Service Application, unless the Customer first picks up the refund in person at City Hall or gives the City a signed, written statement of the address to which to send the refund.
- g. Any interest earned on any deposit shall be the property of the City, and the Customer shall have no right or title to such interest.

SECTION 14. **Landlord's Utility Account**

- a. An owner or manager of one or more rent properties may establish a Landlord's Utility Account in his or her name solely for the purpose of cleaning rent property while it is unoccupied. If the landlord wishes to use city utility service for any other purpose, then the landlord must open a regular utility account. The Landlord's Utility Account may include more than one of the Landlord's owned or managed properties in the same account. The Landlord's Utility Account is subject to all the same provisions of this ordinance and all applicable law as any other city utility account, except as specifically stated in this section.
- b. The landlord is not liable on the tenant's utility account, and the tenant is not liable on the Landlord's Utility Account, unless other law provides for such liability.

- c. Utility services on a tenant's utility account shall not be discontinued or disconnected due to a violation on the Landlord's Utility Account.
- d. The utilities may be disconnected or discontinued due to a violation on a tenant's utility account, as provided in this ordinance. The Landlord's Utility Account does not apply to the property until that property is vacant, and at that time, the landlord may have the water turned on under the Landlord's Utility Account, despite any delinquency in payment by the tenant.
- e. Nothing in this subsection shall protect a party from having utilities discontinued or disconnected, or from any other remedy in favor of the City, as a result of a violation on that party's own utility account.
- f. The deposit on a Landlord's Utility Account shall be \$100, regardless of the number of properties included on the account.
- g. The fee shall be \$25.00 for the City to turn on the water at a service address under a Landlord's Utility Account, and an additional \$25 fee shall be required for each service address for which the water is turned on. All other fees on the Landlords' Utility Account shall be the same as on any other account on this ordinance.

SECTION 15. Prohibition of Water Wells, Connections, Lead, Use of Certain Utilities, and Certain Occupancy

- a. No person shall drill or attempt to drill any water well within the city for potable water purposes.
- b. No person shall connect any water well, except a water well provided by the City, to any dwelling or other structure used or designed for human occupation.
- c. No person shall connect any water well, other than a water well provided by the City, to the plumbing system of the City or to any plumbing system of any structure that is in turn connected to the City plumbing system.
- d. No person shall connect the public drinking water and a potential source of contamination. Potential sources of contamination shall be isolated from the public water system by an appropriate backflow prevention device.
- e. No person shall connect the public drinking water supply and a private water system. These potential threats to the public drinking water system shall be eliminated at the service connection by the installation a reduced pressure-zone backfire prevention device.
- f. No person shall make a connection which allows water to be returned to the public drinking water supply.

- g. No person shall use any pipe or pipe fitting which contains more than 8.0% lead for the installation or repair of plumbing at any connection which provides water for human use.
- h. No person shall use any solder or flux which contains more than 0.2% lead for the installation or repair of plumbing at any connection which provides water for human use.
- i. No person shall occupy any structure or premises with a connection, pipe, pipe fitting, solder, or flux that violates any part of this ordinance or that would violate this ordinance if connected after the effective date hereof.
- j. No person shall use any water from the plumbing system of a structure or premises with a connection, pipe, pipe fitting, solder, or flux that violates any part of this ordinance or that would violate this ordinance if connected after the effective date hereof.
- k. Each owner and each occupant of a structure or premises shall cause the disconnection of each water well, water connection, plumbing connection, pipe, pipe fitting, solder, or flux on or to that structure or premises that could not lawfully be connected after the effective date of this ordinance.
- l. No person shall occupy, or use any water from, any premises to which the water is unlawfully turned on or to which a water or sewer line is unlawfully tapped.
- m. No person shall occupy any structure or premises that does not have a functional and lawful source of potable water and of sewage treatment.

SECTION 16. **Backflow Prevention and Related Matters**

The requirements of this section are in addition to the requirements of Section 15. Compliance with any one provision does not excuse noncompliance with any other provision. However, in the event that, in a particular situation, compliance with Section 16 would prevent compliance with Section 15, then Section 16 shall govern and control.

a. **General**

No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the Texas Commission on Environmental Quality (TCEQ) (formerly the Texas Natural Resource Conservation Commission) Rules and Regulations for Public Water Systems (TCEQ rules) and this ordinance. The City shall discontinue water service if a

required backflow prevention assembly is not installed, maintained and tested in accordance with the TCEQ Rules and this ordinance.

b. Backflow Prevention Assembly Installation, Testing and Maintenance

1. All backflow prevention assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention assembly tester. **At the owner's expense.**
 2. All backflow prevention assemblies shall be installed and tested in accordance with the manufacturer's instructions, The University of Southern California Manual of Cross-Connection Control.
 3. Each backflow prevention assembly shall be repaired, overhauled, or replaced at the expense of the customer whenever said assembly is found to be defective. Original forms of such test, repairs, and overhaul shall be kept and submitted to the City within five (5) working days of the test, repair or overhaul of each backflow prevention assembly.
 4. No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the advance, written approval of the City. Whenever the existing assembly or device is moved from the present location or cannot be repaired, the backflow prevention assembly or device shall be replaced with a backflow prevention assembly or device that complies with this section, The University of Southern California Manual of Cross-Connection Control, current addition, or the current Plumbing Code of the City, whichever is more stringent.
- c. A reverse pressure zone ("RPZ") must be installed in compliance with this ordinance before water or sewer utility service is provided to the premises after any of the following:
- i. Water utility service is disconnected or discontinued from the property for any reason; or
 - ii. The property is sold.
- d. Test gauges used for backflow prevention assembly testing shall be calibrated at least annually in accordance with The American Water Works Association's Recommended Practice for Backflow Prevention and Cross-Connection Control (Manual M14), current addition, or The University of Southern California's Manual of Cross-Connection Control, current

addition. The original calibration form must be submitted to the City within five (5) working days after calibration.

e. **Backflow Prevention Assembly Testing Personnel**

- i. Each backflow prevention assembly test required by this ordinance or applicable law shall be performed by a person who both: (a) holds a current endorsement as a backflow prevention assembly tester from the Texas Commission on Environmental Quality and (b) is currently registered with the City as a backflow prevention assembly tester.
- ii. A person seeking registration with the City as a backflow prevention assembly tester shall file the following with the City Secretary:
 - A. A registration form, to be provided by the City Utility Department, including the tester's name, employer, address, and telephone number;
 - B. A copy of the tester's current endorsement from the TCEQ;
 - C. The tester's current license and calibration certificates for gauges;
 - D. The registration fee. This fee shall be \$50.00 per year, prorated monthly for each month or partial month until the end of the calendar year. This fee shall not be refundable under any circumstances.
- iii. Registration with the City shall expire on December 31st of each year and must be renewed in the same manner as an original registration.
- iv. The City Utility Department shall keep accurate records of registration of backflow prevention assembly testing personnel.

c. **Customer Service Inspections**

1. A customer service inspection shall be completed prior to providing continuous water service to all new construction, on any existing service when the City has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.
2. Only individuals with the following credentials shall be recognized as capable of conducting a customer service inspection:

- a. Plumbing Inspectors and Water Supply Protection Specialists that have been licensed by the Texas State Board of Plumbing Examiners.
 - b. Certified Waterworks Operators, and members of other water related professional groups who have completed a training course, passed an examination administered by the Commission or its designated agent, and hold a current endorsement issued by the Commission.
3. No utility service shall be provided to an address at which a Customer Service Inspection is required, unless the Customer Service Inspection certifies that:
- a. No direct connection between the public drinking water supply and a potential source of contamination exists. Potential sources of contamination shall be isolated from the public water system by a properly installed air gap or an appropriate backflow prevention assembly.
 - b. No cross-connection between the public supply and a private water source exists. Where an actual properly installed air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
 - c. No connection exists which allows water to be returned to the public drinking water supply is permitted.
 - d. No pipe or pipe fitting which contains more than 8% lead is used for the installation or repair of plumbing at any connection that provides water for human use.
 - E. No solder or flux which contains more than 0.2% lead is used for the installation or repair of plumbing at any connection that provides water for human use. A minimum of one lead test shall be performed for each inspection.

SECTION 17. Inspection

In addition to or separately from any inspections allowed or required by Section 15, the City shall have the right to inspect any premises to which it provides utility service for possible violations of this ordinance and any other law concerning utilities. These inspections may be conducted prior to initiating or reconnecting utility service; when there is reason to believe that there is a violation of this ordinance or of any other law concerning utilities; or after any major changes to any utility facilities. An inspection under this section

may be conducted by the Utility Department Head or by any person designated by the Utility Department Head.

SECTION 18. Notice of Violation

If the City notifies the Customer in writing of any cross-connection, any other potential contamination hazard, or any other violation of this ordinance or any other law concerning utilities, then the Customer shall immediately cure such violation. This section shall not be construed to authorize any violation in the absence of notice thereof from the Water System. Notice hereunder is not a prerequisite to any prosecution for an offense hereunder, and the absence of notice is not a defense to prosecution hereunder.

SECTION 19. Nonliability for Continuity of Service

- a. The term "the City" in this section shall mean not only the City, but also its officers, agents, employees, and representatives. The City shall have no liability whatsoever, under any legal theory whatsoever, for any irregularity, discontinuity, or interruption in utility service, whether deliberate or accidental. Without limiting the generality of the foregoing, the City shall have the right to change or interrupt utility service for maintenance, repair, system improvement, or other purposes. The City shall not be required to notify any person of such events.
- b. By accepting utility services from the City, the customer agrees to hold the City harmless from any and all claims, damages, and losses of any nature whatsoever, under any legal theory whatsoever, arising wholly or partly, directly or indirectly, from any act, omission, or condition in any way concerning utility services or facilities of the City.

SECTION 20. Unlawfully Tapping or Turning On Utilities; Unlawfully Receiving or Using Utility Service

- a. No person except an officer, employee, or contractor of the City shall tap the water or sewer lines belonging to said municipality.
- b. No person except an officer, employee, or contractor of the City shall turn on or unlock the water at the meter to any premises, while the utilities to those premises have been turned off or locked pursuant to any ordinance of the City.
- c. No person, regardless whether such person is a Customer under this ordinance, shall use or receive city utility services at or for a service address in the following circumstances:
 1. The City has discontinued or disconnected utility service to that service address;

2. The City has given written notice of such discontinuance or disconnection either to the service address or to any address of the Customer on that account;
3. The City has not reconnected or again turned on utility service to that service address, after the disconnection or discontinuance described in paragraph (c) (2) above; and
4. The City has not given written notice to the service address or to any address of the Customer on that account that the City has reconnected the utility service or turned the utility service back on at that service address, after the discontinuance or disconnection described in paragraph (c) (2) above.

In any prosecution for a violation of this subsection (c), proof of the circumstances described in paragraphs (c) (1 through 4) shall constitute prima facie proof that the defendant knew that the circumstances described in those paragraphs existed, or that the defendant was criminally negligent as to whether the circumstances described in those paragraphs existed.

In a prosecution for a violation of subsection (c), proof that a person occupied (permanently or temporarily, for any period of time) the premises at the service address for which the utility service was provided shall constitute prima facie proof that such person used or received the utility services provided to that service address.

SECTION 21. Damaging Meter or Other Utility Equipment

a. Criminal Offense. No person shall intentionally, knowingly, recklessly, or with criminal negligence damage any city utility meter, any lock thereon, or any other city utility equipment.

b. Civil Liability and Charges on Utility Account.

1. The customer shall be liable to the City for a utility fee of \$200 if the customer causes or allows damage to a meter that requires the meter to be replaced, regardless whether the damage is criminal.

2. The customer shall be liable to the City for a utility fee of \$50 if the customer causes or allows damage to the antenna of a meter that requires the antenna to be replaced, regardless whether the damage is criminal.

3. The customer shall be liable to the City for a utility fee equal to 50% of the cost of repairing or replacing any damage to City property related to utilities that the customer causes or allows, regardless whether the damage is criminal.

SECTION 21.5. Blocking Meter Prohibited

a. General

1. City utility personnel must have access to read and maintain water meters and related equipment, both electronically and manually.
2. This section applies regardless whether an obstruction is on public or private property.

b. Offenses

1. No person shall park a motor vehicle, trailer, other vehicle, boat, tractor, lawnmower, or other equipment on or above a meter.
2. No person shall obstruct a meter in any manner that interferes with reading the meter by electronic transmission or in any manner that interferes with reading the meter manually.
3. Each customer and each occupant of property with a meter must immediately remove any obstruction of a meter on that property or on that utility account that would, if not removed, interfere with reading the meter electronically or interfere with reading the meter manually.
4. Some examples of such unlawful obstructions are a motor vehicle, trailer, other vehicle, boat, tractor, lawnmower, or other equipment located on or above the meter or blocking the meter from the street; or lawn waste, garbage, other debris, shrubs, landscaping, earth materials of any nature, structures, or other items that obscure, block, or are placed on or above the meter, or that block the meter from the street.

c. Remedies

1. The rights and remedies of the City in this section are in addition to any other rights and remedies of the City from any other source.
2. When a violation of this section is discovered, the City Utilities Department shall inform the customer that access to the meter must be restored immediately. This notice must be in writing and delivered to the premises where the meter is located. However, nothing herein shall prevent the City from giving additional notice by any other method.
3. If the meter is obstructed, with either the same or a different obstruction, twenty-four hours after the notice is delivered to the premises, then the City may remove the obstruction, and the customer and each person causing the obstruction shall be jointly and severally liable to the City for the cost of removing it. Without limiting the generality of the foregoing, removal of an obstruction includes having a vehicle towed at the owner's expense.

4. In an emergency, the City may immediately remove any obstruction of a meter without notice and at the customer's expense.

d. Billing

If a meter is blocked, with the same or a different obstruction, twenty-four hours after the notice is delivered to the premises, then the City may choose to send an estimated bill based on prior usage, and the City may choose whether to adjust that estimate based on other conditions. The customer shall pay that bill. However, if a later meter reading shows that such estimated bill was incorrect, then the next bill(s) shall be increased or reduced as necessary to offset that inaccuracy.

SECTION 22. Customer Must Be Present for Water Turn On

The customer must be present at the site of the meter when the water is turned on, unless the customer first signs and files with the City a statement acknowledging and agreeing that the City shall have no liability for any damage of any nature resulting from turning on the water.

SECTION 23. Sale or Use of Water or Sewer Services

- a. No person or entity except the City shall sell or resell water from the City's water system.
- b. No person or entity except the City shall sell or resell city sewer services.
- c. No person or entity except the City shall receive or use water from the City's water system , unless:
 - 1. such water is received or used at a service address that has a direct connection to the City's water system
 - 2. that direct connection is lawfully turned on and in service; and
 - 3. that direct connection is located at the same address where that person or entity receives or uses said water.
- d. No person or entity other than the City shall transfer or receive a transfer of water from the City's water system from one address, property, tract, or lot to another, including but not limited to a connection by a garden hose.
- e. No person or entity except the City shall receive or use the City's sewer services from, at, or for a service address unless:
 - 1. that service address has direct connections to both the City's water system and the City's sewer system;

2. those direct connections are lawfully turned on and in service; and
3. those direct connections are located at the same address where that person or entity receives or uses said sewer service.

SECTION 24. **Criminal Penalty**

Any person who intentionally, knowingly, recklessly, or with criminal negligence violates or participates in any violation of any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed five hundred dollars (\$500.00). Each day or portion of a day that a violation continues or is repeated shall constitute a separate offense.

SECTION 25. **Civil Remedies and Penalties**

Any and/or all of the following civil remedies may be imposed for violation of any provision of this Ordinance:

- (a) Discontinuance of city utility service;
- (b) Injunctive relief, declaratory relief, monetary damages, attorney's fees and all other expenses incurred in enforcing the City's rights or the violator's obligations or liabilities, costs of court, interest as provided by law, and all other remedies at law or in equity.

SECTION 26. **Cumulative Remedies/No Election of Remedies**

All remedies and penalties in favor of the City or against any person other than the City under this Ordinance and any other law concerning utilities are cumulative. The pursuant or receipt by the City of any one or more penalties or remedies shall not constitute an election of remedies, and shall not prevent the City from pursuing and receiving any and all other remedies and penalties.

SECTION 27. **Right to Amend**

The City of Danbury reserves the right to amend all fees, rates, and any other terms or provisions of this Ordinance.

SECTION 28. **Nonwaiver**

The failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy under this Ordinance or any other law concerning utilities shall never be construed as a waiver of the City's right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

SECTION 29. Nonwaiver of Immunity

Nothing in this Ordinance or in any other law concerning utilities shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City or its officers, agents, employees, or representatives.

SECTION 30. Other Ordinances and Conflicting Terms

1. Regardless of any other provision, this ordinance supersedes and replaces Ordinance No. 19-18, but that ordinance and all prior utility ordinances of the City of Danbury shall remain in full force and effect according to their terms only as to violations thereof committed before the effective date of this ordinance and remedies therefor.
2. In the event of a conflict of terms either within this ordinance or between this ordinance and any other law, the more restrictive provision shall govern and control.

SECTION 31. Severance Clause

If any part of this ordinance, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this order shall remain in full force and effect.

SECTION 32. Effective Date

This ordinance shall be effective immediately upon its passage and approval.

PASSED AND APPROVED this 16th day of January, 2020.

CITY OF DANBURY, TEXAS

By: Melinda Strong
Melinda Strong, Mayor

ATTEST:

Maira Ginther
Maira Ginther, City Secretary

Danbury/Ordinance/Utility Ordinance (1-16-20)

