

**City of Elmendorf Water Tariff
Ordinance 4-9-2015-9**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELMENDORF, SUPERSEDING ORDINANCE 4-10-2014-1; PROVIDING FOR THE ASSESSMENT AND COLLECTION OF FEES AND RATES FOR UTILITY SERVICES WITHIN THE CITY; SETTING THE RELATIONSHIP BETWEEN THE CITY AND UTILITY CUSTOMERS; PROVIDING REGULATIONS FOR THE MANAGEMENT OF THE CITY UTILITY SYSTEMS; PROVIDING THE PRO RATE CHARGES FOR EXTENSION OF WATER UTILITY SERVICES; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Elmendorf presently supplies water to the citizens of Elmendorf and surrounding community citizens within our CCN maintained by the City of Elmendorf.

WHEREAS, the City Council of the City of Elmendorf seeks to promote the health, safety and general welfare of the citizens of the City, and the best interests of the City; and

WHEREAS, the City Council seeks to promote fair, just and reasonable water utility fees; and

WHEREAS, the City Council seeks to ensure that water utility service is adequate and efficient for the citizens of the City; and

WHEREAS, pursuant to Chapter 552 of the Texas Local Government Code and other laws, the City is authorized to operate its water utility systems inside or outside its municipal boundaries, to regulate the system in a manner that protects the interests of the municipality, and to extend the lines of its utility systems inside and outside the municipal boundaries. **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELMENDORF AS FOLLOWS:

SECTION 1: STATEMENTS

- A. STATEMENT OF ORDINANCE: This Tariff is a statement of policy by the City Council of the City of Elmendorf pertaining to the city's rates, charges and service rules. This Tariff is intended to define the service relationship between the city and its utility customers. This Tariff describes rates and charges, the manner in which service is extended

and provided, rules for termination of service and other practices relating to the city's service practices. This Tariff is intended to be used to resolve complaints and disputes on rates, charges and service in a consistent and fair manner.

- B. STATEMENT OF NON-DISCRIMINATORY POLICY: Service of water is provided to citizens who comply with the provisions of this Tariff regardless of race, creed, color, national origin, sex or marital status.
- C. RULES APPLICATION: The rules and regulations specified herein apply to water services furnished by the City of Elmendorf. Failure on the part of the service applicant or consumer to observe the rules and regulations of the city, after due notice of such failure, automatically gives the city the authority to deny or discontinue the furnishing of service as provided herein.
- D. DAMAGE LIABILITY: The City of Elmendorf is not liable for damages caused by service interruptions, events beyond its control, and for normal system failures. The limit of liability of the City of Elmendorf is the extent of the cost of the service provided. By acceptance of service, the service applicant consents to waiver of such liability.
- E. PLUMBING STANDARDS: In compliance with 30 TAC §290.46, the City of Elmendorf adopts the Uniform Plumbing Code as guidance in the design, installation and maintenance of plumbing systems and service facilities connecting or connected to the city's water facilities to the extent appropriate under the applicable statutes and regulations for public water utility systems. Any service recipient may be required to retrofit plumbing systems and service facilities as determined to be necessary by the city for purposes of compliance with the Uniform Plumbing Code.
- F. EXCEPTIONS TO ORDINANCE: The City may make exceptions to this Ordinance for good cause. The following criteria shall be used in determining whether a good cause exception is to be granted:
 - 1 whether the good cause exception would undermine the purpose of the Ordinance;
 - 2 whether the good cause exception would further the purpose of the Ordinance;
 - 3 whether the good cause exception is warranted due to difficult or impossible circumstances;
 - 4 whether the need for a good cause exception could have been avoided with reasonable foresight;
 - 5 whether the good cause exception, if not granted, would produce an illogical result;
 - 6 whether the good cause exception would be a material variance from the Ordinance; and
 - 7 whether the good cause exception would unduly prejudice or burden the City or affected persons.

G. MAIN AND SERVICE LINE RELOCATION: Any and all expenses and/or charges incurred as a result of any relocation of water mains, services, valves and/or associated equipment, necessitated by an individual, group of individuals, subdivision, home or property owners association, company, business, organization or other entity's plans or proposals, to construct, widen, change or modify in any way, any road, street, lane or thoroughfare, right of way, building or structure shall be assessed to the party or parties requesting, instigating or proposing such changes. The cost of the relocation will be determined by the City Engineer, and will include engineering fees, material costs, installation labor and other related charges. The City retains the right to upgrade line sizes at its discretion and will pay the difference between the original and upgraded cost. Any customer costs associated with line upgrades or relocations shall be paid in full before any construction will commence.

SECTION 2: SERVICE RULES AND REGULATIONS

A. SERVICE ENTITLEMENT: The applicant(s) shall be considered fully qualified and entitled to water service when proper application has been made, terms and conditions of service have been met and all fees have been paid as prescribed by this Tariff.

B. SERVICE LOCATION AND CLASSIFICATION: For the purpose of this Tariff, service requested by the applicant shall be for real estate designated to receive the service provided by the city. Service shall be through a meter tap located on that designated real estate unless otherwise approved by City Council.

1. TEMPORARY SERVICE: Temporary Service shall be initiated at an approved service location upon initial application and payment of all applicable fees. Applicants have ninety (90) days from the date of application to complete all of the requirements for establishment of permanent service. If requirements have not been met at the end of the ninety (90) day period, the city shall notify the applicant by mail that they have an additional fourteen (14) days to complete the requirements for permanent service or face temporary interruption of service until permanent service requirements have been completed.

2. PERMANENT SERVICE: The following requirements shall be completed in order to be considered eligible for permanent service status:

- (a) A completed Service Application signed by the applicant,
- (b) A signed copy of the Service Agreement on file in the City Administrative Office,
- (c) A copy of the executed warranty deed, deed of trust or other recordable documentation of fee simple title to the real estate designated to receive service,

- (d) If renting, a copy of the executed rental agreement between the renter and property owner,
- (e) A copy of the applicant's valid state driver's license,
- (f) The original Customer Service Inspection certification completed by a licensed Customer Service Inspector at new construction locations (§290.47(d) – Customer Service Inspection Certificate) (**NOTE 1**)
- (g) Payment of all required charges and fees.
- (h) Confirmation that applicant is not delinquent or owe funds to the City on previous or existing City water accounts.
- (i) Installation of an approved on-site sewage facility. Temporary service can be provided during the construction period when an application for an on-site sewage facility is turned in to city staff with the engineering specification, and design plans for the on-site sewage facility. As provided under Section 2, paragraph B.1., construction must be completed within ninety (90) days from the date of the water service application in order for permanent water service status to be granted. Failure to complete the construction within this time frame will result in the disconnection of temporary service until construction is completed. This section does not apply to properties used for agricultural purposes only or bulk rate commercial customers.

Documentation for permanent service will be kept in the customer's service file maintained at the city administrative office.

NOTE 1: Where required, the property of the service applicant will be inspected to insure compliance with state-required Minimal Acceptable Operating Practices for Public Drinking Water Systems as required by the Texas Commission on Environmental Quality (TCEQ) or successor agency. The customer shall, at his/her expense, properly install, inspect, test, maintain and provide all required documentation of any backflow prevention device required by the City.

C. **OWNERS AND RENTERS:** Any property owner renting or leasing property to other parties is responsible to notify the City in writing whether the owner or renter/lessee is responsible for the payment of the bills. If the owner is not responsible for the bills, the owner may request in writing to receive a copy of the bills and any subsequent late notice informing the renter/lessee of account delinquency. The City will add an additional one dollar (\$1.00) fee on the renter's/lessee's monthly bill to cover the cost of mailing duplicate bills and notices to the owner.

D. **DUE DATES, DELINQUENT BILLS AND SERVICE DISCONNECTION DATE:** Bills are due on the fifteenth (15th) of each month and reflect water amounts used during the preceding month. All bills are considered the responsibility of each person signing the service agreement. If payment is not received by close of business on the 15th, late

charges shall be applied to the account and a delinquent notice will be mailed reflecting additional charges. If the 15th falls on a holiday or weekend, the due date is the next scheduled business day. A bill is considered delinquent if any portion of the bill is unpaid (30 TAC §291.87). Delinquent accounts will be locked on the twenty-fifth (25th) of each month unless the 25th falls on a Friday, weekend or holiday, in which case delinquent accounts will be locked the next scheduled business day. An administrative reset fee will be applied to the account at the time the operator locks the delinquent service. It is considered the responsibility of the owner to insure that payments are mailed with sufficient lead time to ensure timely delivery in accordance with the requirements of this Tariff.

- E. **INSUFFICIENT OR NON-NEGOTIABLE CHECKS:** If the City receives a check, draft or any similar instrument returned by a bank or other institution as insufficient or non-negotiable for any reason for payment on an account, in addition to the check return fee the city shall accept as payment for any services only cash, money order or cashier's check for a period of ninety (90) days after the account has been brought to a current, up-to-date, status. All insufficient instruments will be picked up at the City Administrative Office within three (3) days and paid in full. Failure to do so will result in the temporary interruption of service and administrative reset fees shall apply in addition to all other charges due once the service is locked.
- F. **SENIOR CITIZENS:** In accordance with Texas Utilities Code §182.002 and §182.003, an individual age 60 or older may request a delay without penalty of the payment due date of a bill for utility services provided to them. The delayed due date will be the 25th day of the month. This applies only to residential customers who occupy the entire premises for which a delay is requested. These sections also allows for an elderly person to request a delay of subsequent bills without penalty.

It shall be the responsibility of any service applicant to notify the City of their eligibility for this program by completing a form drafted by the City. Forms will be available at City Hall.

- G. **DISABLED INDIVIDUAL:** A disabled individual may request a delay without penalty of the payment due date of a bill for utility services provided to them. The delayed due date will be the 25th day of the month. This applies only to residential customers who occupy the entire premises for which a delay is requested. These sections also allows for a disabled person to request a delay of subsequent bills without penalty.

It shall be the responsibility of any service applicant to notify the City of their eligibility for this program by completing a form drafted by the City. Forms will be available at City Hall.

- H. **DISCONNECTION OF SERVICE ON HOLIDAYS OR WEEKENDS:** Unless a dangerous or hazardous condition exists, service shall not be disconnected on a day or a day

preceding a day, when city personnel are not available to the public for the purpose of making collections and reconnecting service.

- I. BILLING CYCLES: The city reserves the right to change its billing cycle if the workload requires such a practice. After a billing period has been changed, the billing shall be sent on the new change date unless otherwise determined by the city.
- J. BACK-BILLING: The City may back-bill a customer for up to one year (12 months) for meter reading errors, misapplied meter multiplier, incorrect meter readings, or error in computing the customer's bill. The City must demonstrate satisfactorily to the customer in writing a full explanation of the error. Resulting corrected charges shall be applied to the next billing cycle and will be due upon receipt in addition to all other charges due. Failure to pay the amount due will result in the termination of service until all charges are paid. If service is terminated for non-payment, administrative reset charges shall also apply before service is restored. This provision shall not extend back past the current service applicant.
- K. INOPERATIVE METERS & WATER LOSS MEASURES: Water meters are the property of the City. Water meters found inoperative will be replaced upon discovery. In an effort to minimize unaccounted water loss and to insure accuracy of readings, the City will institute a meter change-out program to replace meters registering over one million gallons (1,000,000) of use or sixty (60) consecutive months of continuous service.
- L. METER LOCATION: All water meters owned and serviced by the City of Elmhendorf shall be located on main road frontage, and on the bulk of the property to be served. Meters will not be installed at any location whose only access is through a private lane or ingress/egress easement. Service recipients will not erect or build any encumbrance that prevents access to the water meter by city employees. When access to the meter is denied or hindered, the city shall notify the property owner by letter to make the water meter accessible. Failure to respond to the city's request will result in the city relocating the meter at the owner's expense.
- M. METER TAMPERING AND UNAUTHORIZED DIVERSION: For purposes of this section, meter tampering, by-passing, or illegal diversion shall be defined as tampering with the city's meter or equipment by-passing the same or other instances of diversion such as:
 - 1. removing a locking or shut-off device installed by the City to discontinue service,
 - 2. physically disorienting the meter or meter assembly,
 - 3. attaching objects to the meter or meter assembly to divert service or to by-pass.

4. insertion of any object into the meter or meter assembly,
5. any other electrical and/or mechanical means of tampering with, by-passing, or diverting service. or,
6. the use of unauthorized taps or connections to any City distribution main lines or appurtenances to acquire water service to include flush risers, fire hydrants and valve assemblies.
 - (a) When it can be demonstrated that a person has benefited from the unauthorized use of city water at a residence or place of business, as the case may be, after the city has caused such service to be terminated for cause as provided herein, said customer shall be assessed the administrative reset fee for each such incidence of unauthorized use of water. The administrative reset fee shall be assessed in addition to the charge for water actually used by said customer, as indicated by the water meter reading.
 - (b) When damage occurs to meters or valves due to unauthorized use, diversion or equipment tampering, the customer shall be assessed the actual cost of repairs in addition to the administrative reset fee. Service shall not be reestablished at the location until such time that all charges have been paid and the account brought up to date.
 - (c) Any person violating this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than one thousand (\$1000.00) dollars.

N. METER RELOCATION: A City water meter shall not be relocated to a different property once it has been installed according to the terms for establishing service at that location. Relocation shall only be for the purpose of keeping the meter co-located on the owner's property pursuant to the sale, transfer or division of said property to a new owner. Relocation of a meter under these provisions must be completed **before** the legal sale, division or transfer of property has been completed.

O. PROHIBITION OF MULTIPLE CONNECTIONS TO A SINGLE TAP: In order for the City to maintain accurate records of the actual number of users on its system to assure compliance with Texas Department of Health Rules and Regulations and Texas Administrative Code requirements (30 TAC §291.89 (a)(4)) on minimum service standards, to ensure that charges are received for each user on the system, and to ensure that the city's metering device is adequately sized for proper flow and accurate measurement of water used, all connections of any dwelling, household, business and/or water-consuming establishment, currently receiving or planning to receive water service, either directly or indirectly from the City's water system, shall individually apply for service under the rules of

this ordinance. Any unauthorized sub-metering or diversion of service shall be considered a multiple connection, and subject to disconnection of service following notice. There is no exception to this policy.

- a. If the City has sufficient reason or proof to believe that more than one (1) household/business is connected to a single meter, the owner shall be notified by mail, at the last known billing address, and given thirty (30) days from the issuance of the notice to reply to said notice, and make application for a new service to accommodate all additional residential or commercial units.
 - b. For purposes of this section, a residence is defined as any dwelling used as living space with at least one bathroom, sink or cooking area.
 - c. Under the rules of the City, each tap to the water main line is considered an individual unit, and the monthly service charge shall be paid whether water is used or not.
- P. **BULK OR SPECIAL WATER USAGE:** Water may be sold by the City in special circumstances to businesses or individuals for use in road construction/maintenance, new business construction, drilling, etc. The City will install a meter at the nearest adequate flush riser or hydrant to the customer's site. The customer will make application for bulk water use, and pay applicable fees and charges as specified in Section 4, Rates and Service Fees.
- Q. **LINE EXTENSIONS:** Where recorded public utility easements do not exist on the property of a non-developer or developer who is requesting water service from the City, a non-developer or developer shall grant a permanent recorded public utility easement of poles, wires, conduits, drainage, channels, storm sewers, sanitary sewers, water lines, gas lines, or other utilities to the City. These easements shall be at least 20 feet (20') wide; however, if the Water Supervisor determines a greater width is necessary; the Water Supervisor may require a minimum width of up to 30 feet (30'). For developers, the easements required by this section shall comply with the City's subdivision ordinance. For non-developers, the easements required by this section shall extend along all roadway frontages of the property and shall parallel as closely as possible the street line frontage. Failure to grant the required easements shall result in the denial of service.

All water service lines on private property from the City's main lines to the premises, including all connections, shall be installed, maintained, and repaired at the expense of the property owner(s). All leaks and other defects in the same shall be promptly repaired by the property owner(s). If required repairs are not completed within ten (10) days after written notice is mailed or hand delivered to the premises, water service to the premises shall be terminated and shall not be restored until the repairs are made and all applicable fees and expenses paid. Any expenditures incurred by the City because of said leaks or

defects shall be charged against the property owner(s), and must be paid before water service is restored.

“Pro Rata Charges” shall mean fees charged to new intervening water service customers who connect to a City water facility or main, the cost of construction of which that was paid by a developer or non-developer, that are used to reimburse that developer or individual for a portion of such costs. Such charges shall be calculated on a case by case basis prior to the initial construction of the water facility or main paid for by the developer or non-developer to be reimbursed, and the portion of the main or facility for which pro rata charges are collected shall be measured from the then existing water line and the first point of connection of the developer or non-developer. The goal of such calculation shall be to fully reimburse the developer or non-developer if all intervening service connections become connected, but no developer or non-developer shall have a right to full reimbursement. In no event may a developer or individual recover more than his or her original costs. The City may provide that the period of collection of such pro rata charges shall be limited in time.

- R. EXTENSION OF WATER SERVICE TO DEVELOPERS: Developers desiring retail water service from the City shall comply with the City’s subdivision ordinances to obtain retail water service from the City for the development and to extend the City’s water system to the development and shall enter into a development agreement with the City that contains the details, including costs, of such provision of services. In no event shall developers be allowed to pay a lower cost for extending water facilities or mains than individuals and non-developers are required to pay.

The development agreement may provide that the developer shall be reimbursed partially or totally for their costs of extending the water facilities or mains by intervening customers who connect to the main(s) after their construction and make such reimbursement payments on a pro rata basis. Water main extension reimbursements shall be made in accordance with the City’s subdivision ordinance.

Developers desiring retail water service from the City and whose property is located outside the City limits of the City shall request annexation into the City in order to obtain water service. If at the time the request is made the City is unable to annex the property, the Developer and the City may enter into a written development agreement that addresses whether and under what terms, if any, the City will provide service.

- S. EXTENSION OF WATER SERVICE NON-DEVELOPER: This section applies to a request for water service in the City’s water service area from non-developers. Upon the approval of an application from a non-developer and upon payment of all applicable fees and charges due under this section and at the expense of the applicant, the City may extend all necessary water facilities and mains to the property plus the distance across the

entire frontage necessary to provide the service upon the premises for which the application has been made.

1. The City will not pay the cost of extending water facilities and mains to the property. The applicant shall be responsible for paying all costs to extend the water facilities and main. The applicant shall pay the estimate of such cost prior to construction. If the actual cost to extend the water mains and facilities is greater than the estimated costs, the applicant shall pay the City the difference between the actual and estimated costs upon completion of the extension project. If the estimated cost to extend the water facilities and mains is less than the actual costs, the City shall reimburse the applicant the difference between the actual and estimated costs upon completion of the extension project.
2. The owners of all intervening property served by such extension shall be required to pay the pro rata charges at such time as their property is connected to the City's water system.
3. Upon approval of the City, the property owner or person requesting extension of water facilities or mains to his or her property may extend the mains or facilities by a competent and reputable contractor. All plans and construction shall comply with City standards and specifications. Detailed construction plans for the improvements complying with the City's construction standards and specifications for public works construction shall be drawn by a registered professional engineer and approved by the Water Supervisor prior to any construction. The construction shall be inspected and approved prior to final acceptance by the City and all expenses associated with such inspection and approval shall be borne by the person requesting service.
4. The sizes of the mains proposed to be extended shall be determined by the City and shall conform to the water utility infrastructure master plans. The total costs of extending the mains to and across the applicant's property shall be borne solely by the applicants, with the following exceptions:
 - A. Upon approval and acceptance of the system by the City, on any mains larger than eight inches (8"), the City may elect to participate in the cost by refunding the owner the difference between the cost of the oversized main and the eight inch (8") main.
 - B. The City also will pay to the original applicant pro rata charges as received from applicants who desire to connect to the mains, with the total payment not to exceed the amount of the original applicant's cost of off-site improvements.
 - C. The maximum period of time for the pro rata reimbursement to the original developer for the off-site mains shall not exceed ten (10) years. The developer shall

have no claim against the City for any expenses not reimbursed and any pro rata charges not received within ten (10) years, nor any fees received after ten (10) years.

5. Pro rata charges, if any, shall be collected at the time of application for water service.

In no event will the City be required to make extensions or participate in the cost of improvements under the provisions of this section if there are no funds available or if, at the discretion of the City, the extension or improvement may not be practical, or otherwise warranted, or is for an unreasonable consumer use.

All water utilities are owned and operated by the City. Any extensions of the City's water facilities made by a qualified service applicant or developer, after inspection and acceptance by the City, shall be owned by the City.

T. LIENS: Effective August 28, 1989, the authority to impose liens for water, wastewater, gas, electric, and other utility services has been conferred by statute on all municipalities. That statutory authority, however, includes the following limitations applicable to the imposition of liens for delinquent utility bills:

1. A lien may not apply with respect to bills for service connected in a tenant's name after notice by a property owner to the municipality that the property is rental property,
2. Except for valid ordinances adopted prior to August 28, 1989, a lien may not apply to bills for service connected in a tenant's name prior to the effective date of the ordinance imposing the lien, and,
3. A lien may not be imposed against a homestead.

U. CUSTOMER SERVICE INSPECTIONS: In accordance with the provisions of 30 TAC §290.46(j)(1), the City of Elmendorf shall require a Customer Service Inspection to be completed prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist or after material improvement, correction, or addition to the private water distribution facilities. Customer Service Inspections will be completed by a city employee, who has completed a commission-approved course, passed an examination and possesses a current professional Customer Service Inspector license or an appropriately licensed plumbing inspector or water supply protection specialist. Fees for conducting a Customer Service Inspection are outlined in Section 4: Rates and Service Fees of this Tariff.

- V. **PAYMENT EXTENSIONS:** In the event a customer is unable to pay their bill prior to the disconnection date, a customer may elect to file for an extension for additional time to pay without being disconnected. Requests for payment extensions must be filed in writing on an approved City of Elmendorf form and signed. At no time may an extension go past the 5th day of the following month. Granting a payment extension does not eliminate any past due penalties. It simply extends the time to make a final payment prior to disconnection. An administrative fee of \$5.00 shall apply to all approved requests and that amount will be added to the following month's bill. See section 4.M.
- W. **DEFERRED PAYMENT PLAN:** Upon application with the City, customer may enter into a deferred payment plan allowing for an outstanding bill to be paid in installments. The deferred payment plan is available to any residential customer if that customer's bill is more than two times the average monthly bill for that customer for the previous 12 months and if that customer has not been issued more than two disconnection notices at any time during the preceding 12 months. The City will apply an administrative fee of \$5.00 to the bill for the month following the initiation of the installment plan to all approved requests.
- X. **DISCONNECTION FOR ILL CUSTOMERS:** The City will not discontinue service to a delinquent residential customer when that customer establishes that some person residing at that residence will become seriously ill or more seriously ill if service is discontinued. To avoid disconnection under these circumstances, the customer and a physician must complete a Medical Necessity Program application and provide such completed application to the City prior to the stated date of disconnection. Service may be disconnected in accordance with this Water Tariff and state law if the next month's bill and the past due bill are not paid by the due date of the next month's bill, unless the customer enters into a deferred payment plan in accordance with Paragraph W of this Section.
- Y. **DISPUTED BILLS:** A utility customer may advise the City that a bill is in dispute by written notice or in person during normal business hours. The utility customer must file the dispute with the City and make a payment to the City equal to the customer's average monthly usage at current rates prior to the date of proposed discontinuance for a customer to avoid discontinuance of service as provided by this Water Tariff. Notwithstanding any other section of this Water Tariff, the customer may not be required to pay the disputed portion of a bill that exceeds the amount of that customer's average monthly usage at current rates pending the completion of the determination of the dispute. For purposes of this paragraph only, the customer's average monthly usage will be the average of the customer's usage for the preceding 12-month period. Where no previous usage history exists, consumption for calculating the average monthly usage will be estimated on the basis of usage levels of similar customers under similar conditions.
- Z. **INDUSTRIAL CUSTOMERS:** Each industrial customer and industrial developer will be required to provide the City with an estimated annual water use at the time of requesting

water service and by January of each year once service is established. For the purpose of this paragraph, the definition of industrial customer shall be the categories in Industrial Use Category in Sec. 313 of the City of Elmendorf Zoning Ordinance. If the annual use is greater than, one acre-foot of water per year, the industrial customer will be required to enter into an agreement with the City for an annual commitment of the quantity of water to be paid for, whether taken or not, on an annual basis. The City will calculate total water used by the industrial customer at the end of each year. If water taken by the industrial customer is less than the annual commitment contained in the annual commitment agreement, all base volume water rates for water not taken will be assessed and billed to the industrial customer. If water taken is equal to the annual commitment, no additional volume base rates will be charged to the industrial customer.

- AA. PRIVATE FIRE PROTECTION SERVICE LINES: A water customer may submit an application with the City to have a private fire protection service line installed to the customer's property. A City approved contractor must install the private fire protection service lines for the customer. The Approval of an application for connection of a private fire protection system must be to a City main no smaller than 12 inches in diameter. The diameter of the private fire protection service line must be between 6" and 12" and, within that range, may be determined by the customer to serve the fire protection requirements of the customer's property. The City will determine whether a backflow prevention assembly will be required. The backflow prevention assembly must be installed, maintained and tested annually at the customer's expense. Each parcel, lot, tract, or separate property to be served by the City shall have an individually metered fire service line connection from a public water main. The fire service lines cannot cross property lines.

SECTION 3: RULES FOR SERVICE DISCONNECTION

The following describes the rules and conditions pertaining to disconnection of service:

- A. DISCONNECTION WITH NOTICE: Water utility service may be disconnected for any of the following reasons provided the City has given adequate notice of said failure to comply, and service recipient has failed to comply within the specified period of time following notification.
1. Non-Negotiable Checks. If the City receives a non-negotiable instrument for payment on an account that is not classified as delinquent at the time of receipt, the City shall notify the payee according to the provisions of Section 2 E,
 2. Failure to pay a delinquent account for utility service,
 3. Failure to comply with the terms of any approved deferred payment agreement,

4. Violation of the City's rules pertaining to the use of water service in a manner which interferes with the service of others, and reasonable opportunity to remedy the situation has been provided,
5. Failure of the customer to comply with the provisions of this ordinance or service agreement provided that the City has given notice of said failure to comply, and customer has failed or refused to comply within a specified period of time following notification (Including but not limited to required documents for receiving permanent service, Easements where required, etc.),
6. Failure to provide access to the water meter under the terms of this ordinance or to the property at which water service is received when there is a reason to believe that a dangerous or hazardous condition or regulatory violation exists for which access is necessary to verify, or to complete a Customer Service Inspection as required in the Texas Administrative Code,
7. Misrepresentation by an applicant or transferee of any fact on any form, document. or other agreement required for permanent service status by the City,
8. Failure of a customer to reapply for service upon notification by the City that the customer no longer meets the terms of the service classification originally applied for under the original service application,

B. DISCONNECTION WITHOUT NOTICE: Water utility service may be disconnected without notice for any of the following reasons or conditions:

1. A known dangerous or hazardous condition exists for which it may remain disconnected for as long as the condition exists. When possible, given the nature of the condition, a written notice of disconnection and the specific reason therefore shall be posted at a place of common entry or on the front door of each affected unit as soon as possible after the service has been disconnected,
2. Service is connected without authority by any person(s) who has not made application for service or who has reconnected service without authority following termination of service for nonpayment,
3. In instances of tampering with the City's meter or equipment, by-passing the meter or equipment or other diversion of service,
4. Where the City has received a non-negotiable instrument for payment, and reasonable and prudent attempts to contact the customer/owner have proven unsuccessful.

C. DISCONNECTION PROHIBITED: Utility service may not be disconnected for any of the following reasons:

1. Failure of the customer to pay for merchandise or charges for non-utility service provided by the City; unless a written agreement exists between the customer and the City whereby the customer guarantees payment of non-utility service as a condition of service,
2. Failure of the customer to pay for a different class or type of service unless a fee for such service is included in the same bill,
3. Failure of the customer to pay charges arising from an under-billing occurring due to a misapplication of the rates more than six (6) months prior to the current billing. Payment for under-billings that are beyond six (6) months may be paid out over time as per agreement by the Mayor or City Council,
4. Failure of a customer to pay the account of another customer as guarantor thereof, unless the City has in writing the guarantee as a condition precedent to service,
5. Failure of a customer to pay charges arising from an under-billing due to any faulty metering, unless the meter has been tampered with or unless such under-billing charges are due to meter reading error,
6. Failure of a customer to pay a past-customers under-billing or delinquent charges at the customer's service location,
7. Failure of the customer to pay an estimated bill, other than a bill rendered pursuant to an approved meter reading schedule, unless the City is unable to read the meter due to circumstances beyond its control,
8. Unless a hazardous condition exists, service will not be disconnected on a day or on a day preceding a day, when personnel of the City are not available to the public for the purpose of making payment and reconnecting service,
9. Disconnection for the seriously ill and elderly who are compliant with the provisions of Section 2 F.

D. DISCONNECTION OF MASTER-METERED SERVICES: When a master-metered bill is delinquent (master-metered being defined as a complex of where a single meter serves two (2) or more residential units) the following shall apply:

1. The City shall send a notice to the customer as required, and inform the customer that notice of disconnection will be provided to the tenants of the serviced complex if payment is not rendered in the manner specified in this ordinance.
2. The City will post notices in public areas within the complex no less than forty eight (48) hours prior to the scheduled disconnection date.
3. Tenants may pay the City for any delinquent bill on behalf of the owner to avert disconnection or to reconnect service to the complex.

SECTION 4: RATES AND SERVICE FEES

Unless specifically defined in this ordinance, any fees, rates and charges as stated herein shall be non-refundable.

- A. **INSTALLATION FEE:** The City shall charge a standard service installation fee of one thousand five hundred dollars (\$1,500.00) for meters smaller than 1". A 1" meter will have an installation fee of one thousand eight hundred dollars (\$1,800.00). A 2" meter will have an installation fee of one thousand nine hundred and twenty-five dollars (\$1,925.00). Included in these fees is the cost and labor required to provide individual metered service to single unit.

A customer wishing to install a meter larger than 2" will need to hire a licensed water contractor to perform the work and submit an engineered water plan to be reviewed by our city engineer. An administrative fee to cover our cost of the review and supervision of the work of \$750.00 must be remitted at the time the plan is submitted. All work must be approved by the city engineer before acceptance of the line and meter by the City of Elmendorf. The fees of the city engineer are not included in this administrative fee (see Section 4.B).

- B. **ENGINEERING FEE:** The service applicant must pay any scheduled engineering fees associated with any construction, line upgrades and extensions requiring an engineer's review and approval prior to installation.
- C. **RECONNECTION FEE:** Any person requesting water service from the City at a location where service is available but the meter has been removed shall pay a reconnect fee of one hundred and fifty dollars (\$150) to reestablish service at said location.
- D. **UTILITY ADMINISTRATION FEE:** A fee in the amount of one hundred dollars (\$ 100) will be required of all owners or renters as a condition of service to cover the administrative costs associated with the account. This is a one-time charge that will not be required upon subsequent changes of residence or business within the City provided that the account is in good standing.

- F. **DUPLICATE BILLING FEE:** Any person(s) receiving service to a property who is not the owner (renter, lessee, tenant, etc.) will be subject to a duplicate billing fee in the amount of one dollar (\$1.00) per month for each individual meter billing. This fee will cover the cost of preparing and mailing a duplicate monthly bill and any subsequent past due notice to the owner.
- G. **LATE PAYMENT FEE:** Once per billing cycle, a penalty of ten percent (10%) shall be applied to delinquent bills of any unpaid balance due the City.
- H. **RETURNED CHECK FEE:** A fee of forty dollars (\$40) will be charged for non-negotiable instruments accepted for account payment.
- I. **SERVICE TRIP FEE:** The City shall charge a service trip fee of ten dollars (\$10) for any requested service call by the customer or resident for the purpose of meter reading verification and/or meter reading other than the regular monthly meter reading or temporarily disconnecting the service at the request of the owner or resident. This fee will not be charged if the service trip is in response to a report by the customer of damage to the City's property or that of another customer. Service trip fees will not be charged when the City performs a verification re-read when the reading appears questionable or when requested by the customer and the City made a mistake of 1,000 gallons or more in reading the meter initially.
- J. **ADMINISTRATIVE RESET FEE:** A fee of fifty dollars (\$50) will be applied to any account locked for delinquency or terminated for cause as stated herein. The administrative reset fee must be paid before any service is restored.
- K. **EQUIPMENT DAMAGE FEE:** If the City's facilities or equipment have been damaged as a result of tampering, by-passing, installing unauthorized taps, reconnecting water service following locking of the meter for account delinquency, a minimum material and administrative fee of thirty dollars (\$30) shall be charged in addition to any other material costs necessary to repair any damage.
- L. **TRANSFER FEE:** An applicant for service who is a transferee shall complete all required forms and pay a transfer fee of seventy five dollars (\$75). Community property of estate settlements of an account holder will be transferred at no charge.
- M. **ADMINISTRATIVE FEE – DEFERRED PAYMENT/PAYMENT EXTENSION:** There shall be a five dollar (\$5.00) monthly administrative fee for customers requesting and receiving deferred payment for as long as there is a remaining balance.

N. **TARIFF COPY FEE:** There will be a copy of the city water ordinance available in the City Administrative Office that customers may view during regular business hours. A fee of five dollars (\$5.00) will be charged for persons requesting a copy of the Tariff.

O. **TEMPORARY SERVICE FEE:** When service to a residence or business had been disconnected, it may be temporarily reinstated for the purpose of inspection, maintenance or repair associated with preparation for sale. There will be a twenty five dollar (\$25) service charge for each round trip to install or activate the water meter in addition to the standard water use charge. This temporary connection shall be for a period not to exceed ten (10) days upon receipt of payment with balance due for water used at the end of said ten-day period. This service shall not be applicable to any currently occupied business or residence.

P. **BULK WATER SALES:** The following charges and fees shall be applicable to customers requiring water for construction, road maintenance, well drilling, etc.

- Daily Rental Charge: \$10.00
- Installation/removal charge: \$100.00
- Charge per 1,000 gallons: \$15.75
- Deposit: \$500.00

Q. **SERVICE AVAILABILITY CHARGES:** In accordance with the provisions of American Water Works Association (AWWA) C708 & C702 - Flow Rates, the service availability charge (minimum monthly charge) for metered water service, including gallons allowed, is based on meter size and is as follows:

METER SIZE	BILLING EQUIVALENTS	MONTHLY SERVICE AVAILABILITY CHARGE INSIDE CITY LIMITS	MONTHLY SERVICE AVAILABILITY CHARGE OUTSIDE CITY LIMITS	GALLONS ALLOWED PER MONTH
5/8"	N/A	\$42.67	\$49.34	3,000
1"	2.5	\$106.68	\$123.35	8,000
1 1/2" *	5	\$218.55	\$252.75	12,000
2" *	8	\$349.68	\$404.40	0
3" DISP *	9	\$393.39	\$454.95	0
3" CMPD *	16	\$699.36	\$808.80	0

3" TURB *	17.50	\$764.93	\$884.63	0
4" CMPD *	25	\$1,092.75	\$1,263.75	0
4" TURB *	30	\$1,311.30	\$1,516.50	0
6" CMPD *	50	\$2,185.50	\$2,527.50	0
6" TURB *	62.50	\$2,731.88	\$3,159.38	0
8" CMPD *	80	\$3,496.80	\$4,044.00	0
10" CMPD *	115	\$5,026.65	\$5,813.25	0

* Staff note: Council approved a 2.5% increase on meters up to 1" in size. Meter sizes greater than 1" were approved with a 5% increase. To calculate the service availability charge on meters greater than 1", a 5% increase was applied to the service availability charge in effect under Ordinance 4-10-2014-1 (\$41.63 inside city limits, \$48.14 outside city limits) to calculate the base rate to apply to the billing equivalent factor for each meter size. The base rates after the 5% increase to apply to the billing equivalent factors are \$43.71 inside city limits and \$50.55 outside city limits.

In addition to the service availability charge, water usage in excess of the gallons allowed per month listed above will be billed at the following rates:

	Inside City Limits	Outside City Limits
1 gallon to 3,000 gallons	\$2.63 per 1,000 gallons	\$2.89 per 1,000 gallons
3,001 to 8,000 gallons	\$2.90 per 1,000 gallons	\$3.33 per 1,000 gallons
8,001 to 12,000 gallons	\$3.34 per 1,000 gallons	\$3.84 per 1,000 gallons
12,001 to 16,000 gallons	\$3.74 per 1,000 gallons	\$4.30 per 1,000 gallons
16,001 to 20,000 gallons	\$4.57 per 1,000 gallons	\$5.25 per 1,000 gallons
20,001 to 30,000 gallons	\$5.43 per 1,000 gallons	\$6.25 per 1,000 gallons
30,001 to 40,000 gallons	\$6.30 per 1,000 gallons	\$7.25 per 1,000 gallons
40,001 and greater	\$7.17 per 1,000 gallons	\$8.24 per 1,000 gallons

For example, a water customer living within the Elmendorf City limits who has a 5/8 meter and uses 3,100 gallons of water in a month will pay the \$42.67 monthly service availability charge plus an additional \$2.90 for water usage over 3,000 gallons during that month for a monthly total

of \$45.57. All other factors being the same, if the same customer uses 4,010 gallons the next month, that customer will pay \$5.80 (\$2.90 x 2) for water usage in addition to the \$42.67 monthly service availability charge for a monthly total of \$48.47.

- R. CUSTOMER SERVICE INSPECTIONS: A fee of seventy five (\$75) shall be charged when a licensed city employee conducts a Customer Service Inspection.
- S. BACKFLOW PREVENTION INSPECTIONS: A fee of forty-five (\$45) shall be charged when a licensed city employee conducts a Backflow Prevention Inspection on a residential connection. A fee of seventy-five (\$75) shall be charged when a licensed city employee conducts a Backflow Prevention Inspection on a commercial connection (including RV Parks), up to a 2” meter. A fee of two hundred (\$200) shall be charged when a licensed city employee conducts a Backflow Prevention Inspection on an industrial connection (3” meters or larger).
- T. COLLECTION FEE: Should a customer’s account balance exceed 60 days past due, the account will be turned over to a third party collection agency and a fee equal to 30% of the outstanding balance will be added to the outstanding balance owed by the customer.
- U. PRIVATE FIRE PROTECTION SERVICE LINE FEE: Each customer that installs a private fire protection service system in accordance with Section 2. AA. of this Ordinance will be charged an annual fee of \$1,543.44. The customer may pay the annual fee in either a one-time payment of the total \$1,543.44 due at the time of connection and on each one year anniversary of the connection date or a monthly payment of \$128.62. Water used by the customer for the private fire protection system is not included in the annual fee and will be billed for each thousand gallons used as seen in the rate schedule in Section 4, Item Q of this ordinance.

SECTION 5: ENFORCEMENT

Any person, firm or individual who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one dollar (\$1.00) or more than two thousand dollars (\$2,000.00) in accordance with Tex. Local Government Code §54.001(b). Each and every day the violation continues shall constitute a separate and distinct offense.

SECTION 6: PUBLICATION

The City Secretary is authorized and direct to publish the caption and penalty prescribed by this ordinance in accordance with State Law

SECTION 7: SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases are separable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionally or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections in this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.

SECTION 8: REPEAL OF CONFLICTING ORDINANCES

The Ordinance supersedes Ordinance 4-10-2014-1. Should any City Ordinance, previously passed and approved be in conflict with this Ordinance, the terms of this Tariff shall prevail.

SECTION 9: EFFECTIVE DATE

This Ordinance shall be in force and effect from and after its publication.

Passed and approved this 9th day of April 2015.

MAYOR: _____

ATTEST:

CITY ADMINISTRATOR