

CITY OF LOG CABIN, TEXAS

ORDINANCE NO. 77

STATE OF TEXAS

COUNTY OF HENDERSON

AN ORDINANCE PROVIDING FOR RATES TO BE CHARGED FOR SERVICES PROVIDED BY THE CITY OF LOG CABIN, TEXAS REGARDING CONNECTION OF PROPERTY TO THE SEWER SYSTEM OF THE CITY OF LOG CABIN, TEXAS IN ACCORDANCE WITH THE LOCAL GOVERNMENT CODE OF THE STATE OF TEXAS (ARTICLE 214.000 ET SEQ.) PROVIDING FOR DEFINITIONS, PROPERTY DESIGNATION, FEES AND PENALTIES, SEVERANCE CLAUSE AND REPEALING CLAUSE.

WHEREAS, the City of Log Cabin is seeking financial assistance from the Texas Water Development Board; and

WHEREAS, pursuant thereto the City has previously agreed to enforce and adopt Texas Water Development Board Resolution 99-23 passed on the 11th day of March, 1999, that it will adopt a Rate Ordinance regarding its sewer system; and

WHEREAS, it is necessary that the City, by ordinance, enact such Sewer Rate Ordinance; and NOW, THEREFORE;

Be It Ordained By the City Council of The City of Log Cabin, Texas:

I.

Definitions and General Terms

Section A. Words Used - Generally.

Whenever any word in any section of this ordinance importing the plural number is used, in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included. The words "person, firm or corporation," shall be deemed to include any association or organization of any kind. Words in the present shall include the future. The words "this ordinance" shall be held and taken to mean the entire enactment, including each and every section thereof. The word "city" whenever used shall be held and taken

to mean the City of Log Cabin. The words "written" and "in writing" may include printing, copier, telecopier, mimeograph, off-set, or any other reproduction of the words. Provided, that these rules of construction shall not be applied to any section of an ordinance which contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto.

Section B. Specific definitions.

Section 1. Undefined terms.) In interpreting any term used in this ordinance, when the term is not defined in the ordinance in question or in this ordinance, the ordinary meaning of the term will apply unless the context clearly indicates that a different meaning is intended.

Section C. Specific definitions.) As used in this city ordinance the following terms shall have the following meanings unless the ordinance contains a different definition or the context clearly indicates that a different meaning is intended:

Computer. Any electronic device used for storing information, organizing information, processing information and supply information. Unless the context indicates a limited meaning is intended, "computer" shall include not only the device enclosed in a casing but also all cards, tapes, disks and other devices used to store or retrieve information, and all hardware and software. The word "computer" shall also include a computer system.

Connection: The actual tying on by a property owner or tenant to the city's collection line of its sanitary sewer system.

Individual: A natural person.

Knowingly: With a knowledge that the facts exist which bring the act or omission within the provisions of this ordinance; with or without knowledge of the unlawfulness of such act or omission.

Negligence: A want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

Offense: The doing of any of the acts or things which are prohibited by any provisions of this ordinance or the failure or refusal to do any act which is commanded to be done as more fully specified and set forth in this ordinance is an offense. Every act which is declared to be unlawful is also hereby declared to be an offense.

Peace Officer: Signifies any sheriff, health officer, constable, police officer or fire marshal or any other officers whose duty it is to enforce and preserve the public peace, safety and welfare.

Person: Every natural person, firm, partnership, association or corporation.

Personal Property: Every kind of money, goods, chattels, effects, evidences of right in action and written instruments by which any pecuniary obligation, right or title to personal property is created or acknowledged, transferred, increased, defeated, discharged or diminished.

Property: Real and personal property.

Rates: The monetary charges of the City of Log Cabin, Texas charged for providing sewer services.

Real Property: Every estate, interest and right in lands, and structures attached to lands.

Sanitary Sewer System: The City's centralized system designed and operated for the purpose of the collection and disposal of liquid and solid waste in the City of Log Cabin, Texas.

Signature: Any name, mark or sign, written with the intent to authenticate any writing.

Willfully: With a purpose or willingness to commit the act or the omission referred to.

Section D. Gender.) Unless the context clearly indicates a different intention, words used in the masculine gender comprehend as well the feminine gender and neuter, and words in the feminine gender include the masculine and neuter gender.

Section E. Person as designating party whose property may be subject of offense.) Where the term "person" is used in an ordinance to designate the party whose property may be the subject of any offense, it includes this city, the State of Texas or any other state, government or country which may lawfully own any property within the city and all public and private corporations, partnerships and joint ventures as well as individuals.

Section F. Present and future tense; singular and plural references.) Words used in the present tense include the future; the singular number includes the plural and the plural the singular when used in this ordinance.

Section G. Writing includes printing.) The term "writing" includes printing. Where any city records are kept in a computer, a backup copy shall be kept in writing unless this ordinance relating to such record specifies that a written backup record is not required.

Section H. Particular definitions--Officers and employees.

Whenever reference is made in this ordinance to a city officer or employee by title only, this shall be construed as though followed by the words "of the City of Log Cabin" and shall be taken to mean the officer or employee of this city having the title mentioned or performing the duties indicated.

No provision of an ordinance designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this ordinance for a failure to perform such duty, unless the intention of the council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

II.

City Actions No Guarantee or Warranty

Section A. No guarantee or warranty.) Nothing in this city ordinance shall be interpreted as guaranteeing or warranting that any method, construction, product, service, building or anything whatsoever is safe, free from defects or suited for the purpose for which it is intended.

Section B. Actions by city officers and employees.) No issuance of a permit, approval, inspection or other action by any city officer or employee shall constitute a warranty or guarantee that any method, construction, product, building, service or anything whatsoever is safe, free from defects or suited for the purpose for which it is intended.

III.

Separability and Constitutional Rights

Section A. Separability.

In the absence of specific language to the contrary, each section and each provision or requirement of any section of this ordinance shall be considered separable, and the invalidity of any portion of this ordinance shall not affect the validity or enforceability of any other portion.

Section B. When restitution not Ordered.) If a court does not order restitution, the victim of any ordinance violation may sue in a civil case for damages or other appropriate relief.

Section C. Free speech.

Section 1. Free speech recognized.) It is the intent of the city to avoid restricting speech that is protected by the United States Constitution and speech that is protected by the Constitution of the State of Texas. This ordinance shall not be interpreted as restricting such protected speech or as regulating the content of such protected speech. This section shall not be interpreted as protecting material that is obscene or pornographic. This section shall not be interpreted as permitting any person to urge or advise another to commit a crime or misdemeanor, nor shall this section be interpreted as permitting any persons to engage in a conspiracy to commit a crime or misdemeanor. It is the intent of this ordinance that it shall be interpreted in a way

consistent with constitutional free speech and free press protections.

Section D. Constitutional rights.

Section 1. Constitutional rights respected.) It is the policy of the city to avoid infringing on any constitutional right of any person. This ordinance shall be interpreted in accordance with the principles set out in this section. If this ordinance is capable of more than one interpretation, the interpretation which raises the least question of infringing on any right guaranteed by the United States Constitution or the Constitution of the State of Texas shall be deemed to be the intended construction. If the application of an ordinance provision to a particular set of facts is capable of more than one interpretation, the interpretation shall be made in accordance with the principles set out in this section.

Section E. Equal rights.

Section 1. Equal rights intended.) The terms of this ordinance shall be interpreted in accordance with this section, unless the context clearly requires a different interpretation:

- (a) Each provision shall be deemed to apply equally to males and females.
- (b) Each provision shall be deemed to apply equally to all persons regardless of skin color or ethnic group.
- (c) Each provision shall be deemed to apply equally to each person regardless of religion.

IV.
Rates

Section 1. Rates established.) There be and there is hereby established rates or charges for the use and service of the sewerage system of the city. Such rates or charges shall be based upon the amount of water supplied by the municipal waterworks system as shown by the water meter readings for each month of each calendar year, and all users of said sewerage system shall be charged the rates hereinafter set out based upon the attached schedule which is attached hereto as Exhibit "A" and by reference made a part hereof.

Section 2. Charges.) Charges for sewerage service shall be made each month of the calendar year. All bills are to be rendered as of the first day of the month following the month for which charges are made, and shall be due and payable on the date of rendition thereof.

Section 3. Lien.) In the event the charges for sewerage service are not paid within thirty days after rendition of the bill for such service such charges shall be deemed and are hereby declared to be delinquent and thereafter such delinquency shall constitute a lien upon the real

estate for which such service is supplied, and the city clerk be and he is hereby authorized and directed to file sworn statements showing such delinquencies in the office of the recorder of deeds of Henderson County, and the filing of such statements shall be deemed notice of the lien of such charges for such service.

Section 4. Discontinuance of service.) All sewerage service shall be discontinued without further notice if the rates or charges for such service are not paid within thirty days after rendition of the bill therefor.

Section 5. Person responsible for payment.) The rates and charges herein established shall be collected from the owners, occupants and users of the premises within said city from and after the effective date of this ordinance.

Section 6. Filing copy.) When this ordinance becomes effective, a copy thereof properly certified by the city clerk shall be filed in the office of the recorder of deeds of Henderson County, and it shall be deemed notice to all owners of real estate of their liability for sewerage service supplied to any occupant or user of such service on their property.

Section 7. Service connections.) A service connection charge (tap-in fee) shall be paid before any sewer connection is completed. Before such connection is made a permit must be secured. All such connections shall be made and all such work done at the expense of the applicant who shall also furnish materials necessary for such work; all such connections shall be made under the supervision of the city inspector and no connection shall be covered until the work has been inspected by him. Applications for such connections shall be made to the city clerk, and the permit fee paid. Such fee shall be that which is set from time to time by the city council.

Section 8. Tap-in fees, hardship.) Despite any provision in any ordinance relating to fees to be paid before connecting a residence to a sewer line, such tap-in fees shall be deferred in hardship cases as described in this section as follows:

1. Any person desiring to obtain a connection to a sewer without first paying the fee required by ordinance for such connection shall make a written application for deferral of the fee, on a form to be provided by the manager. The application shall fully state the resources and income of the applicant, and of each person over eighteen years of age proposing to live in the premises to be connected.
2. If the family income is below the level of poverty, considering all of the persons in the household and the income of each person in the tap-in fee, payment of the tap-in fee shall be deferred. The availability of the deferred payment of the tap fee shall be determined by the City based upon existing poverty levels of the State of Texas and/or Federal Government.

3. Deferral of a tap-in fee as provided herein shall not excuse the payment of the fee: before any connection to the sewer system is made the owner of the premises to be connected shall execute a note secured by a mortgage on the real estate involved. The note shall provide for payment of the charge in installments with six percent interest on the unpaid principal. The mortgage shall provide that no foreclosure action shall be brought unless the amount due has not been paid in full by the time of the death of the original mortgagor or the sale or transfer of title of the property, whichever happens first. Upon the death of the original mortgagor or the sale, exchange, transfer or forced sale of the real estate, foreclosure action may be brought concerning any amounts remaining unpaid on the note, principal or interest.
4. After connection is made pursuant to the provisions of this section, service shall not be discontinued for any nonpayment or fraud relating to such deferred payments. If fraud is discovered the matter shall be reported to the city council for the institution of appropriate criminal action, in addition to any civil action that may be filed on behalf of the city.

V. Penalties

Section A. Penalty.) Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five dollars nor more than two hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section B. Penalties

In all cases where the same offense is made punishable or is created by different clauses or sections of this ordinance the prosecuting officer may elect under which to proceed; but not more than one recover shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Section C. Pending suits.

No new ordinance shall be construed or held to repeal this ordinance, whether this ordinance is expressly repealed or not, as to any offense committed against this ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under this ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter

shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any penalty accrued or to accrue, or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of this ordinance.

Section D. Presumption of liability.

The occupant of any premises, and the owner of unoccupied premises, upon which a violation of this ordinance is apparent, the owner of any object or material placed or remaining anywhere in violation of this ordinance, and the occupant and owner of any premises served by any excavation connection, or structure illegally made or erected, shall be deemed prima facie responsible for the violation so evidenced and subject to the penalty provided therefor.

Section E. Violation as nuisance.

Section 1. Ordinance violation as nuisance.) In the absence of language indicating a contrary intent, when the violation of this ordinance results in injury or damage to persons or property on privately-owned land or on publicly-owned places, the act or omission constituting the ordinance violation shall be deemed to be a nuisance.

Section 2. Remedies.) In addition to all other penalties and remedies provided by law, any person damaged by a nuisance caused by this ordinance violation may, in an appropriate court action, obtain an award for damages, a temporary restraining order, a preliminary injunction or a permanent injunction. The City may also obtain a temporary restraining order, preliminary injunction, permanent injunction, and, if the City receives actual financial damages, an award for such damages.

Section F. Restitution for ordinance violation.

Section 1. Restitution orders.) Nothing in this city ordinance establishing a penalty for a violation of an ordinance shall be interpreted as preventing a court of competent jurisdiction from ordering a person violating this ordinance to make restitution to the victim of the violation. Such action may be ordered in lieu of a fine or other penalty, in addition to a fine or other penalty, or

included in an order suspending a sentence on certain conditions.

VI.

Enabling Legislation and Statutory Authority

This ordinance is duly enacted by the City of Log Cabin, Texas by and pursuant to the general laws and Constitution of the State of Texas, to specifically include, but not being limited to, Article 214.000 et seq of the Texas Local Government Code.

PASSED AND APPROVED this the 5th day of June, 1999.

CITY OF LOG CABIN

Billy L. Hood

MAYOR

ATTEST:

Shelley Townsend
, City Secretary

City of Log Cabin, Texas
Combination Tax & Revenue Certificates of Obligation
 Series 1999
 \$1,840,000

Fiscal Year Ending 30-Sep	Net Debt Service	Required Rate for 600 Connections (I&S only) ⁽¹⁾	Estimated Rate for M&O Expense ⁽¹⁾	Estimated Monthly Rate ⁽¹⁾
1999				
2000		\$ 20.08	\$ 18.00	\$ 38.08
2001	\$ 144,582.50	19.77	18.00	37.77
2002	142,360.00	19.45	18.00	37.45
2003	140,050.00	19.80	18.00	37.80
2004	142,565.00	19.43	18.00	37.43
2005	139,902.50	19.73	18.00	37.73
2006	142,072.50	20.00	18.00	38.00
2007	143,977.50	19.54	18.00	37.54
2008	140,705.00	19.76	18.00	37.76
2009	142,247.50	19.93	18.00	37.93
2010	143,500.00	19.38	18.00	37.38
2011	139,557.50	19.50	18.00	37.50
2012	140,412.50	19.58	18.00	37.58
2013	140,978.75	19.62	18.00	37.62
2014	141,275.00	19.62	18.00	37.62
2015	141,296.25	19.59	18.00	37.59
2016	141,037.50	19.51	18.00	37.51
2017	140,493.75	20.08	18.00	38.08
2018	144,545.00	19.89	18.00	37.89
2019	143,220.00			
	<u>\$ 2,694,778.75</u>			

(1) Sewer rates start one year before debt service is due or when service is provided.
 This allows for a gradual build up of fund balance.

Exhibit "A"

CERTIFICATE FOR ORDINANCE

I, the undersigned City Secretary of the City of Log Cabin, Texas, hereby certify as follows:

1. The City Council of said City convened in Special Session on June 5, 1999, at the regular meeting place thereof, and the roll was called of the duly constituted officers and members of said City Council, to-wit:

- Billy L. Goodwin, Mayor
- Faye Burnett, Mayor ProTem
- Betty Leech
- Doris Gunnels
- George Taft
- Richard Harrah

and all of said persons were present, except for the following: Doris Gunnels; thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written Ordinance entitled

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOG CABIN, TEXAS, AUTHORIZING THE ISSUANCE AND SALE OF CITY OF LOG CABIN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 1999, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,840,000; PROVIDING FOR THE SECURITY FOR AND PAYMENT OF SAID CERTIFICATES; PRESCRIBING THE FORM OF SAID CERTIFICATES; AWARDING THE SALE THEREOF; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

was duly introduced for consideration and passage. It was then duly moved and seconded that said Ordinance be passed on first reading; and, after due discussion, said motion, carrying with it the passage of said Ordinance, prevailed and carried by the following vote:

AYES: 4 NOES: 0 ABSTENTIONS: 1

2. A true, full and correct copy of the aforesaid Ordinance passed at the meeting described in the above and foregoing paragraph is attached to and follows this Certificate; said Ordinance has been duly recorded in the official minutes of said City Council; the above and foregoing paragraph is a true and correct excerpt from said minutes of said meeting pertaining to the passage of said Ordinance; the persons named in the above and foregoing paragraph, at the time of said meeting and the passage of said Ordinance, were the duly chosen, qualified and acting officers and members of said City Council as indicated therein; each of said officers and members was duly and sufficiently notified officially and personally in advance, of the time, place and purpose of the aforesaid meeting and that said Ordinance would be introduced and considered for passage at said meeting, and each of said officers and members consented in advance to the holding of said meeting for such purpose; and said meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Tex. Gov't Code Ann., ch. 551.

SIGNED AND SEALED this June 5, 1999.

Shelley Townsend
City Secretary, City of Log Cabin, Texas

[CITY SEAL]

**RESOLUTION REQUESTING LOWEST FINANCIAL ASSISTANCE FROM THE
TEXAS WATER DEVELOPMENT BOARD**

WHEREAS, the City of Log Cabin, Texas (the "City") has requested financial assistance from the Texas Water Development Board for funds to construct wastewater system improvements (the "Project") and to issue obligations to finance the cost of the Project;

WHEREAS, by resolution adopted March 11, 1999 (the "Board Resolution"), the Board made a commitment to provide financial assistance to the City through the Water Quality Enhancement Account; and

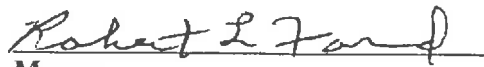
WHEREAS, the City has been notified that the Board may have funds available from the Clean Water State Revolving Fund ("SRF") that would provide a lower cost to the City; Now, Therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOG CABIN, TEXAS:

Section 1. The statements contained in the preamble of this Resolution are true and correct and are adopted as findings of fact and operative provisions hereof.

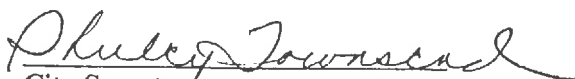
Section 2. By this Resolution, the City requests that to the Board and its authorized representatives take whatever actions may be necessary to provide the lowest cost financial assistance to the City, including revising the Board commitment to provide that such financial assistance may be made from the SRF; provided, that any such actions shall not jeopardize the City's eligibility for obtaining the financial assistance necessary for the Project.

PASSED, APPROVED AND EFFECTIVE this 15th APRIL 1999.



Mayor
City of Log Cabin, Texas

ATTEST:



City Secretary
City of Log Cabin, Texas

(CITY SEAL)