

**ORDINANCE NO. 2012-30**

**AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING CHAPTER 110, ARTICLE I AND II, OF THE BURNET CODE OF ORDINANCES IN THEIR ENTIRETY; ADOPTING NEW DEFINITIONS; CLARIFYING COSTS; REPEALING ORDINANCES IN CONFLICT; PROVIDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City of Burnet, Texas recognizes the provision of water services to developing areas is of paramount importance; and

**Whereas**, the City of Burnet, Texas recognizes the costs associated with oversized water mains and the responsibility of paying for these costs; and

**Whereas**, as authorized under law, and in the best interests of the citizens of Burnet, Texas, the Burnet City Council deems it expedient and necessary to establish certain rules and policies for the installation and payment of associated costs for water service in order to efficiently manage a limited water resource.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BURNET, TEXAS:**

**SECTION 1.** The Burnet Code Of Ordinances, Chapter 110, Article I and Article II are amended as shown in Exhibit A attached hereto.

**SECTION 2.** Ordinances in Conflict. That all ordinances in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** Severability. Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudicated or held to be



unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

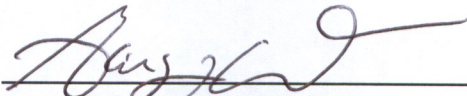
**SECTION 4.** This ordinance shall take effect thirty (30) days from and after its passage upon final reading and the publication of the caption, as the law in such cases provides.

**SECTION 5.** Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Chapter 551, Local Government Code.

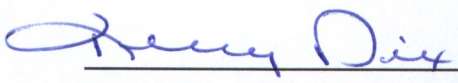
**PASSED AND APPROVED ON FIRST READING** this 11<sup>th</sup> day of September, 2012.

**FINALLY PASSED AND APPROVED** on this 25<sup>th</sup> day of September, 2012.

**CITY OF BURNET, TEXAS**

  
\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST**

  
\_\_\_\_\_  
Kelly Dix, City Secretary





## EXHIBIT A

### ARTICLE I. - IN GENERAL

---

Sec. 110-1. - Definitions.

Sec. 110-2. - Connection with city utility systems.

Sec. 110-3. - Assessments on city utilities.

Sec. 110-4. - Application of utility deposits.

Sec. 110-5. - Transfer of services and voluntary disconnection.

Sec. 110-6. - Establishing accounts.

Sec. 110-7. - Compliance requirements for services outside the city limits.

Sec. 110-8. - Line extension and street cutting fees.

Sec. 110-9. - Damage or injury to waterworks or electrical system.

Sec. 110-10. - No service guarantee.

Sec. 110-11. - Violations and notices.

Sec. 110-12. - Costs and appeals.

Sec. 110-13. - Cost of abatement constitutes lien.

Sec. 110-14. - Enforcement.

Sec. 110-15. - Penalty.

Sec. 110-16. - Credit reporting services.

Sec. 110-17. - Court proceedings and judgment.

Sec. 110-18. - No free service.

Sec. 110-19. - Time and place of payments.

Sec. 110-20. - Penalties for late payments.

Sec. 110-21. - Discontinuance of service.

Sec. 110-22. - Deposits.

Sec. 110-23. - Service calls.

Sec. 110-24. - Fees and charges.

Sec. 110-25. - Reserved.

#### **Sec. 110-1. - Definitions.**

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section; provided that, unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this chapter its most reasonable application.



*Business unit or commercial account* shall mean any premises, locations or entities, public or private, including all industrial and commercial entities, within the corporate limits or service area of the city which is not a residential unit.

*City* shall mean the City of Burnet, Texas.

*Connection* shall mean the initial or first connection ("tap") or any subsequent additional connection of a residential or business unit to the city's water or wastewater system.

*Customer* shall mean any person, firm or corporation receiving city water, wastewater or electrical services for a residential or business unit, whether within the city or outside the city limits.

*Infiltration* means the water entering a sanitary sewer system and/or service connection from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

*Inflow* means the water discharged into a sanitary sewer system and/or service connection from such sources including but not limited to, roof leaders, cellars, swimming pool and/or spa drains, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch-basins, storm waters, surface runoff, and street wash waters or drainage.

*Person* shall mean and include an individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

*Poor payment history* means persons having received one or more utility disconnections over the previous 12 months for nonpayment or three or more utility disconnections over the previous three years for nonpayment regardless of whether the payment was later tendered.

*Private sewer* means a sewer line that receives discharge from one or more building drains and conveys it to a public sewer, private sewage disposal system, or other point of disposal. Private sewers shall constitute that portion of a sewer line on private property beginning at the legal boundary of the property.



*Property or lot* means a separate parcel of land, created by the division or subdivision of a block or other parcel, intended as a unit for transfer of ownership, or for development, or for occupancy and/or use, platted in compliance with state law. See also: Legal lot.

*Reconnection or reconnect* shall mean connection of any city utility service by an existing customer to an existing account after a prior disconnection regardless of the reason for the disconnect.

*Residential unit or residential account* shall mean a dwelling within the corporate limits or service area of the city intended for occupancy by a person or group of persons comprising not more than one family. A dwelling shall be deemed occupied and shall be deemed by the city to be a separate residential unit for billing and collection purposes when either water or electrical power services are being supplied thereto.

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

*Separate connection* shall mean the individual metering facilities for each residential or business unit for which city services have been requested or provided, whether occupied or not.

*Service fees* means any fee charged for requested services on the utility services of the city including but not limited to connection, reconnection, disconnection, transfers, response to reported problems, and/or repairs.

*Standard Tap means a connection to any City water or sewer service that is adjacent to and abutting a property or within 50' of said property.*

*Non-Standard Tap means a connection to any City water or sewer service that is not a standard tap.*

*Utility or utilities* means individually or any combination of water, wastewater, electrical, solid waste or other city services being provided by the city.

**Sec. 110-2. - Connection with city utility systems.**

- (a) *Connection to city sewage system required where feasible.* The use of any premises in the city in such a manner as to create sewage thereon not discharged into the sewage system of the city, when and where available, is hereby declared to be a nuisance. Every water closet or privy connected and used in any building, not connected with the sewage system, when and where available, is hereby declared a nuisance, provided that this subsection shall be inapplicable to



premises where connection to the city sewage system is not feasible. Such connection with the city sewage system is hereby declared to be feasible as to any premises abutting any street, alley, or other public way or sewer right-of-way in which any line of the sewage system of the city sufficient to handle the sewage exists.

- (b) *Connection to city water system required where feasible.* It shall be the duty of any person owning or occupying improved property within the corporate limits of the city which can be feasibly connected to the city sewage system as set out in subsection (a) of this section, to also connect such property and the improvements thereon with the city water services if the same exist in the street, alley or other public way or water right-of-way abutting the premises or otherwise available thereto. It shall be such person's duty to provide for the safe removal or satisfactory destruction of discontinued tanks or containers previously used for the collection of sanitary sewage or other waste materials in that they may constitute a present or future health or safety hazard.
- (c) *City services not available; subsequently become available.* Where such city services are not available in the abutting streets, alleys, other public ways or other utility rights-of-way, but subsequently are installed or laid therein, it shall be the duty of the owner or occupant of such property within 60 days after the same becomes available, to connect therewith. Such connections must be made subject to the applicable charges provided by the then current ordinances of the city.
- (d) *Owner responsible for discontinued septic tanks.* Within 90 days after improved property has been connected to city sewer lines, it shall be the responsibility of the owner or occupant to dispose of the contents of any discontinued septic tanks and remove the tank, or to fill the tank cavity with solid soil, sand, or similar compacted material. The city official will then be notified and an inspection made before the top of the tank is covered with topsoil.
- (e) *Connection to city electrical system required where feasible.* It shall be the duty of any person owning or occupying improved property within the corporate limits of the city which can be feasibly connected to the city's electrical system to connect such property and improvements to the city electrical system. If electrical services exist in a street, alley or other public way or public right of way or public utility easement abutting the premises, it shall be presumed that such property and improvements may be feasibly connected to the city's electrical system.
- (f) *Connection of nonpermanent locations to city electrical system.* The city may provide electrical service to nonpermanent facilities, provided that such connection is feasible, complies with chapter 22, and provided that the customer pays for the construction and removal costs required to service the nonpermanent facilities. This payment is nonrefundable and may be charged on the customer's utility bill if not paid in full at the time of request for full payment.



- (g) *Construction information.* All utility lines in a subdivision, including overhead electrical lines, shall be built on the front lot lines along public streets, or along the back lot lines if the back lot line abuts an alley, at a location deemed proper by the city engineer, or his or her designee. The city at all times after acceptance owns and controls all such utility lines and may serve other customers from the line or any of its extensions without obligation to the users of the line.
- (h) *Customer-installed wiring.* All service entrance wiring through the weatherhead and meter base to the main disconnect switch or service center, including the weatherhead itself, must be paid for and installed by the customer. Installation must comply with chapter 22. Customers must also pay for and install additional wiring the customer may require. Wiring installation must meet the provisions of the National Electrical Code and all other applicable codes issued by the State of Texas or other applicable body and with chapter 22. The city is not responsible for ensuring that any wiring is in compliance with codes and will bear no liability with respect to the wiring. The switch or service center must be easily accessible to the city's electric employees, with no barrier to access, to connect services, read meters, and maintain operations.

**Sec. 110-3. - Assessments on city utilities.**

Assessments of five percent of the gross receipts of each city-operated utility shall be transferred to the general fund of the city each year.

**Sec. 110-4. - Application of utility deposits.**

- (a) Upon termination of service, all utility deposits held with the city shall in addition to securing the payment for utility services received, also secure and may be applied to any other debt or obligation owed the city by the person(s) having made the utility deposit. The remaining balance of any and all utility deposits collected by the city for electric, water, sewer or trash disposal shall be credited to the account of the individual who secured the deposit in his or her name, as designated by subsection (b) herein. The deposit will first be applied to any outstanding utility bills, then to any additional outstanding debts to the city prior to any refund being offered. Additional outstanding debts of the individual seeking return of a utility deposit include, but are not limited to:
  - (1) Other utility services which have been provided under said person's name and that have an outstanding balance due and owing to the city;
  - (2) Balances owed for EMS, fire or other emergency services;
  - (3) Liens placed by the city upon any property owned by such person;
  - (4) Any outstanding fees, charges, court costs, fines or warrants payable by such person by virtue of any record, action or proceeding in the municipal court;
  - (5) Any balance owned for Galloway Hammond Recreation Center;



- (6) Any balance owed for Delaware Springs Golf Course.
- (b) *Residential customers refund of deposits to the customer account.*
  - (1) Residential utility customers who have placed a deposit after December 31, 2004 and who have shown an excellent payment history over a period of five years or more, shall have their utility deposit refunded as a credit to their account after December 31 of the fifth year of service. For purposes of this section "excellent payment history" shall mean the customer has not had a disconnection of service for non-payment of service, no dishonored checks for utility payments, and has had no late payments for a period of at least five years.
  - (2) Upon adoption of this section, the city shall refund deposits as a credit to the customer accounts for residential utility customers who placed deposits prior to December 31, 2004 and who have excellent payment histories over five years, based on a scale from oldest to newest, to be credited over a period of three years, beginning January 1, 2009, until all applicable deposits have been refunded.

In the event a customer whose deposit has been refunded is disconnected due to nonpayment, that customer must place a new deposit on the account prior to reconnection of the account, at a rate as required and prescribed in the City of Burnet Code of Ordinances at the time of the reconnection.
- (c) Whenever the utility department applies a deposit to any outstanding debt, the individual seeking return of a deposit held in their name may, if not satisfied with the decision of the director of the utility department, appeal the decision to the city manager.

**Sec. 110-5. - Transfer of services and voluntary disconnection.**

- (a) *Transfer to new account.* A transfer fee, as designated by section 110-24, herein, shall be charged for all transfers of utility services from one address to another by an existing customer. In this circumstance, a transfer fee shall be in lieu of a reconnection fee when the order for disconnect at the old location and the connection at the new location are scheduled simultaneously.

Any existing customer requesting a transfer of any utilities must maintain the appropriate deposit for the utility services being transferred. In transfers where the length of time between the connection of the new account and the disconnection of the old account is less than 30 days, the existing deposit shall be transferred to the new account. In transfers where the length of time is thirty days or more, a new deposit at the current deposit rate as defined in section 110-24, herein, shall be required on the new account.

- (b) *Deficiencies to be paid prior to transfer.* No customer will be allowed to transfer and maintain services without paying all deficiencies on existing or prior utility accounts in full and having the full deposit for utility services on deposit with the



city at the time of transfer, but not later than the next complete billing cycle at the transfer location.

- (c) *Termination at owner's request.* Whenever a customer who is not delinquent in the payment of any bill requests that utility services be temporarily discontinued, he or she shall notify the city at least two days prior to the date he or she desires service discontinued. A reconnect fee, payable at the time customer desires services to continue, as designated by section 110-24 herein, shall apply.

**Sec. 110-6. - Establishing accounts.**

- (a) *Minors.* No account may be held in the name of a person who is under the age of 18 years unless the minor requesting services provides adequate evidence that the minor has been emancipated through marriage or other legal means.
- (b) *Proof of identity.* No account may be opened without adequate proof of the identity of the individual requesting services.
- (c) *Residential accounts.* No residential account may be established in the name of any individual not showing proof of a right to tenancy or possession of the residential property to be connected. New homeowners or property owners may demonstrate through a contract to purchase or rent the property a right to possession or tenancy. Only one water, sewer and electrical connection may exist for a single-family residential lot.
- (d) *Commercial accounts.*
  - (1) Unincorporated companies seeking to establish a new account must establish the account in the name of an individual person.
  - (2) *Political subdivision of the state.* The city may, at the election of the city manager, waive the deposit requirements for entities established as political subdivisions of the state. Those not receiving waiver shall be required to make deposit as established in subsection (3) below.
  - (3) Incorporated companies seeking to establish a new account in the name of a duly incorporated entity may establish the new account in the name of a corporation provided a corporate officer produces current valid articles of incorporation and complies with all of the requirements of this article.
- (e) *Adjusted deposit.* Customers having poor payment histories may, at the election of the city manager, be required to deposit an amount determined by the city manager to be sufficient to provide adequate assurance of payment for the property to be connected. The city manager shall use the consumption history of the property to be connected, to scale the deposit. Customers with poor payment histories may be required to deposit an amount greater than the standard deposit but not greater than twice the highest monthly bill during the last 12 months of service for the property to be connected. Properties not having a consumption history may be scaled by selecting a substantially similar property and looking to the established usage history to determine the deposit.



- (f) *Delinquent accounts.* Any residence or property where utility services are requested to be provided where a deficient account is still outstanding from a previous customer shall not be reconnected in a different name than the account was previously connected under, without paying the deficiencies on the account, unless the person requesting utility services reasonably demonstrates that the person whose name the account was previously billed to is no longer a resident of the property and is not otherwise in control of the property.

New owners of property or new residents of a leasehold shall not be responsible for the delinquent utility accounts of a prior tenant or lessee who has vacated the premises. No customer may establish a new utility account in his or her name who has an outstanding deficiency from any previous utility account held by the city and such account has been delinquent for less than five years, without paying all deficiencies in addition to the deposit for the new utility account. The city manager may also require scaled deposit as provided in subsection (e) above.

Customers having had utilities disconnected more than two times in any 12-month period shall be required to deposit twice the standard deposit prior to reconnection after the third involuntary disconnection or an amount equal to the scaled deposit as provided in subsection (e) above, whichever is greater.

Current customers experiencing difficulties paying the current utility bill may make written request for accommodations from the utility department prior to disconnection to permit 20 additional days to pay the current utility account provided the customer has not made such a request in the past 12 months, enters an agreement to pay the full sum within not more than 20 days, and demonstrate one of the following:

- (1) The customer has a medically needy individual in the residential household and the customer needs additional time to secure the financial resources; or
- (2) The utility bill was more than 25 percent greater than the highest bill in the last 12 months and the customer needs additional time to secure the financial resources. Only the city manager may approve the agreement.

Where customers have multiple accounts, delinquency of one account shall cause all accounts to become delinquent and therefore subject to the provisions of this section.

- (g) *Sharing of services.* Separate connections may not share, splice or otherwise distribute water to any other property, lot or portion of the lot save and except through approved utility lines and connections.

**Sec. 110-7. - Compliance requirements for services outside the city limits.**

Any customer receiving utility services outside the city limits may not maintain connection to the city utility system or connect to the city utility system unless the customer is in compliance with the applicable City Codes. Customers receiving water and sewer must at all times be in compliance with the city's plumbing, sewer and water quality regulations. Customers receiving electrical services must at all times be in



compliance with the city's electrical regulations. Any customer failing to be in compliance or refusing reasonable requests for inspection of facilities connected or to be connected to the city's utilities may be declined services.

**Sec. 110-8. - Line extension and street cutting fees.**

Water and sewer taps will be made for the base tap fee provided the tap is made to a water or wastewater line abutting or adjacent to the lot or parcel to be served ("standard location"). For the purposes of this chapter, a tap made on a water or wastewater line located between the boundary line of the property to be served and the right-of-way line of the street or alley abutting such lot, or a line located within the right-of-way of such street between the property boundary line and the traveled, paved portions of the street, shall also constitute a tap made at a "standard location". A tap made at a "standard location" shall be a "standard connection". A "nonstandard location" is any location for a tap to serve any lot, tract or parcel of land other than at a standard location. A "nonstandard connection" is any tap that requires work, construction or extensions to be made for the tap, or that is made at other than a standard location. Additional charges and fees will be assessed and collected as herein detailed for costs associated with standard taps, line extensions and taps made to a nonstandard location.

(1) All new taps, whether standard or non-standard, may have additional costs added and be the responsibility of the applicant. These additional costs may be to cross any right-of-way, any land surveying for easement purposes, when the ground requires rock cutting or blasting, a tap made to any main line larger than 6", or any other nontypical cost associated with the installation of the tap.

- (1) *Availability of service.* The existence of mains, trunk lines or other lines, near a property will not constitute an obligation for the city to limit the tap fee or charge for making a water or sewer service tap to such line, where such lines must be tapped at other than a standard location, are inaccessible due to necessary crossings of streets, highways, drainage channels and similar barriers, or when cost must be incurred over and above the cost for making a tap at a standard location. Taps at nonstandard locations must be arranged for with the director of public works in advance of the desired service date, to permit necessary extensions, crossings or similar construction.
- (2) *Installation of nonstandard connection.* Upon the approval of the city manager, the owner or developer of a subdivision or lot(s) requiring a nonstandard connection may contract with a qualified contractor for the installation, construction and/or extension of any water or sewer line necessary to make a nonstandard connection or as necessary for the location for the tap to become a standard location and, in such event, such



owner or developer shall pay the reasonable costs and charges therefore directly to the contractor and obtain a receipt and release from said contractor. The city shall otherwise, at the expense of the applicant for the tap, construct all line extensions and perform all construction required to make a water or sewer tap at a nonstandard location. The city engineer or department of public works shall inspect such construction and work to assure it is completed in compliance with the applicable rules and regulations of the city and the Texas Natural Resource Conservation Commission.

- (3) *Costs.* The reasonable costs and expenses for installing, constructing and extending any water or sewer line of the city to provide a tap at a nonstandard location, or to extend such lines to a standard location, shall be charged and collected by the city, if such costs are not paid directly by an owner/developer pursuant to (2) above. Such additional costs and expenses shall be equal to the difference between the cost of making the tap at a standard location and the cost of making the tap at the nonstandard location, or, as the case may be, the difference between the cost of making the tap at a standard location and the costs incurred for the work and construction to make the standard tap or extend the lines to a point or location that is a standard location for the tap.
- (4) *Payment of line extension fee.* When a water or sewer line extension charge is required, the city may at its option require the owner being furnished the line to: deposit, in advance, the estimated costs for construction of the water or sewer line that is estimated to be costs additional to a standard connection; post a bond sufficient to cover the total estimated costs of line extension; or provide a letter of credit sufficient to cover the total estimated costs of the line extension.
- (5) *Line extension fees outside city limits.* The costs set out in this section shall apply for connections to property both inside and outside the city limits.
- (6) *Electrical line extension fees.* The policies set forth in this section shall apply to connection of property to the city's electrical services as well.
- (7) *Refundable costs.* Customers required to extend water, wastewater or electrical lines to a non-standard connection as provided in this section may be eligible for a refund of a prorated portion of the costs. Individual lot owners may request a refund agreement prior to the approval of a non-standard line extension. Refunds shall not be available to developments of two or more lots. Requests for refund agreements shall be directed to the city manager and any resulting agreement shall be in writing. The city manager shall consider the costs of extension and the distance and the availability of serviceable properties between the point of connection and



the point of service. Refund agreements shall be for a term of five years, set forth therein the reasonable costs of line extension incurred, and establish a prorated fee to be charged against each serviceable property between the point of connection and point of service. Each serviceable property to request service during the term of the refund agreement shall pay, as an additional cost to tap fees, the prorated share of the line extension costs which shall be refunded pursuant to the agreement.

**Sec. 110-9. - Damage or injury to waterworks or electrical system.**

- (a) *Damage or injury.* It shall be unlawful for any person, in any way, to intentionally or carelessly break, deface or in any manner damage, injure or destroy any hydrant, standpipe, lock box or other property belonging to the city or belonging to others, and used in connection with the waterworks or electrical system of the city. No person other than a duly authorized agent of the city shall remove, repair, or tamper with or in any way interfere with the city's meter boxes, meters, lock boxes, water service lines, sewer service lines, electrical lines or other water, sewer or electrical system appurtenances. The city reserves the right to immediately and without notice remove the meter or disconnect services to any customer whose meter has been tampered with and to assess actual repair charges to the customer plus a damage fee of \$50.00.
- (b) *Repair of damages.* All meters, fittings, boxes, valves and appurtenances installed by city personnel shall remain the property of the city. The city reserves the right on 24-hour notice and no appeal being filed, to remove the meter or disconnect water, sewer or electrical service to any customer whose meter or lock box has been tampered with and to assess actual repair charges to the customer plus a damage fee of \$50.00. As necessary or advisable to protect the public health or the operation and function of the city's water, sewer or electrical system, the city further reserves the right and authority to proceed immediately and without notice to disconnect, or to repair when and as necessary and appropriate, any meter, pipe, line or other appurtenance connected to the city water, sewer or electrical system, and if such repair is made to any such line, pipe or appurtenance owned by any private property owner to assess the actual repair charges to the customer who owns, rents, or controls such property. Failure to repair or failure to pay for repairs performed by the city shall constitute cause for the city to terminate services to the customer charged with the repairs. The city requires each customer to "CALL BEFORE YOU DIG" so the water department will be able to locate lines for the customer. Repair charges will be assessed to the customer if no attempt is made to contact the proper city department before digging and damage occurs. Repair charges are due within ten days from the date of invoice and are as follows: (a) Labor charges—Regular time for repairs needed during normal business hours. After 5:00 p.m. and weekends—Time and one-half and if on a city



holiday the rate shall be the rate of pay established for employees on holidays. (b) Equipment rental—Actual cost to city. If not paid within ten days from date of invoice, the city reserves the right to immediately and without notice remove the meter or disconnect water, sewer or electrical service until all repair charges are paid in full.

**Sec. 110-10. - No service guarantee.**

Customers are not guaranteed a specific quantity or pressure of water, or any specific level of any sewer, electricity or other service, for any purpose whatever; in no instance shall the city be liable for failure or refusal to furnish water or any particular amount or pressure of water, sewer, electricity or any other service under this chapter.

**Sec. 110-11. - Violations and notices.**

- (a) If an officer charged with the enforcement of this chapter shall determine that a person has violated any provision of the Burnet Code of Ordinances with regard to the utility services, such officer may issue a citation.
- (b) If an officer charged with the enforcement of the Burnet Code of Ordinances shall determine that a situation exists affecting the utility services which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (c) If an officer charged with enforcement of the Burnet Code of Ordinances determines a situation affecting the utility services constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city manager may authorize such actions as are reasonably required to protect the public health, safety and welfare. The owner or occupant of the property may file an appeal with the city council which may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare or overrule the determination of the city manager.
- (d) If any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by the Burnet Code of Ordinances affecting the utility services within seven days after notice to do so, the city may terminate services or do such work or cause the same to be done, and pay therefore, and charge the expenses in doing or having such work done or improvements made to the owner(s) of the property, and such charge shall be a personal liability of such owner to the city.
- (e) Notices required pursuant to this chapter shall be in writing. Such notices may be served upon such owner and/or occupant as follows: in person by an officer or



employee of the city; by letter addressed to such owner or occupant at his/her post office address; or, if personal service may not be had, or the owner or occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city or by posting a notice on or near the front door of each building on the property upon which the violation relates, or, if no building exists, by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. Notices of termination of services for nonpayment shall be mailed regular first class mail to the address designated on the account for receipt of bill and shall be deemed served within three days of deposit in the regular mail. The notice may state "Sanitary Improvements", "To Whom It May Concern" and a brief statement of the violation(s) or delinquency. If the notice is for delinquency, the notice shall include a termination date and location for payment for services. Service of the notice by any one of the above methods, or by a combination thereof, shall be deemed sufficient notice.

- (f) If an owner is mailed a notice in accordance with subsection (e) and the United States Postal Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected, and the notice is considered as delivered.
- (g) Notices of nuisances provided by mail or by posting as set forth in subsection (e) may provide for year round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that pose a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner's expense and assess the costs against the property.
- (h) Persons in violation of this chapter or causing or creating a prohibited nuisance affecting the utility system in the presence of a person authorized to enforce this chapter may be cited or a complaint filed for such violation without notice of the violation, or warning, and such citation or complaint shall be filed in the Municipal Court of the City of Burnet.

**Sec. 110-12. - Costs and appeals.**

In addition to any other remedy provided in this chapter and cumulative thereto, the code enforcement officer, after giving to the owner of the property seven days' notice in writing, as provided in section 110-11 above, may cause any of the work or improvements mentioned in this chapter and necessary to protect the health, safety and public welfare to be done at the expense of the city, and charge the utility bill of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on which such expenses occurred; provided, that the owner of any such real estate may appeal to the city manager council from the order of the code enforcement officer by filing a written statement with the code enforcement officer within seven days after receipt of the notice provided for above,



stating that such real estate complied with the provision of the Burnet Code of Ordinances and this chapter before the expiration of a seven-day period. If the owner of such property is aggrieved with the decision of the city manager, the owner may appeal to the city council within five days of the decision of the city manager by filing a notice of appeal with the city secretary. The city council shall set a date, within 30 days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of the Burnet Code of Ordinances and this chapter before the expiration of such seven-day period. The authority of the code enforcement officer to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending. If it shall be determined by the city council that the premises complied with the provisions of the Burnet Code of Ordinances and this chapter before the expiration of the seven-day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

**Sec. 110-13. - Cost of abatement constitutes lien.**

Cumulative of the city's remedy by fine, as set forth herein, the city may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the city's expense and charge the same to the utility bill of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

- (1) Expenditures plus ten percent per annum interest on the expenditures from the date of such payment by the city shall be added to the next billing cycle for utility bills for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the city for abatement of any nuisance described herein is paid in full.
- (2) Upon filing with the County Clerk of Burnet County, Texas, of a statement by the city secretary or designee of such expenses, the city shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten percent per annum interest on the amount from the date of such payment so made by the city.
- (3) The city may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.



**Sec. 110-14. - Enforcement.**

The civil and criminal provisions of this chapter shall be enforced by the persons or agencies designated by the city, including, but not limited to, the City of Burnet Law Enforcement Agency, the building official, and the code enforcement officer. It shall be a violation of this chapter to interfere with a code enforcement officer, or other person authorized to enforce this chapter, in the performance of his or her duties.

**Sec. 110-15. - Penalty.**

Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of \$500.00. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

It shall be unlawful to receive water, wastewater, electric or solid waste collection service from the city and refuse or fail to pay the fees and charges for such service or services. It shall be prima facie evidence that a delinquent customer is in violation of this section, if the service fee or charges remain unpaid 30 days after receiving written notice of such delinquency. Conviction of the offense of refusing or failing to pay a service fee or charge shall be a misdemeanor subject to a fine of not less than \$200.00 nor more than \$500.00 dollars. Each day in violation shall be deemed a separate offense and subject to the penalty herein provided.

**Sec. 110-16. - Credit reporting services.**

The city shall become a member of one or more accredited credit bureaus and reporting services, selected by the city manager. As and when directed by the city manager, the city may request and obtain a credit report on any person or entity making application for utility service from the city. In addition to the payment and account information available in the city records, the city manager may consider credit reports when establishing the required deposit pursuant to section 110-6(e). The city shall report to the credit service(s) the relevant payment information on all persons or entities having utility service in their name when payment of the utility account remains delinquent for more than 90 days.

**Sec. 110-17. - Court proceedings and judgment.**

The city manager shall have the authority to authorize and direct the city attorney to file suit to collect amounts owed the city for utility services and charges that remain delinquent for a period of 90 days or more. If authorized and directed by the city manager to file suit on any account or accounts, the city attorney is authorized to file suit and



prosecute the claim, account and suit to judgment. The city shall be entitled to recover all its costs and attorney fees in any such cause, suit or proceedings.

**Sec. 110-18. - No free service.**

It is hereby declared illegal and unlawful for anyone to obtain the services of or to consume any products of the municipal utility system free of charge. All connections shall be metered, and the consumer shall make payments according to the reading of the meter and/or, at the rates prescribed in this section.

**Sec. 110-19. - Time and place of payments.**

Charges for all utility services shall be paid together on a monthly basis. The bills rendered under this section shall be due and payable on the tenth day of the month following issuance. Payment must be received in the city's office by 8:00 a.m. on the morning of the next business day following the due date to avoid penalties as defined in section 110-20 of this section. When the tenth falls on a Saturday, Sunday, or an official municipal holiday, the due date shall be the next regularly scheduled business day.

**Sec. 110-20. - Penalties for late payments.**

Any consumer whose account is overdue in accordance with section 110-19 shall be assessed a penalty of ten percent of the gross amount. Such penalty shall be due and payable along with the gross amount.

**Sec. 110-21. - Discontinuance of service.**

The municipal utility system of the city hereby reserves the right to discontinue service to any and all customers when such discontinuance becomes necessary for the repair of the system, or any part of the system, or for nonpayment of an account within ten days from the time the account becomes due and payable. Prior to discontinuing services, the city shall notify the customer by first class mail of the intent to disconnect. When utility service has been discontinued for nonpayment of a bill, service shall not be resumed except upon payment of the bill in full and all applicable fees including but not limited to, a reconnect fee, an after-hours fee, and a fee for collecting a past due account at any location other than at the city office. Fees are as defined in section 110-24.

**Sec. 110-22. - Deposits.**

Each subscriber, before connecting with the utility system, shall deposit with the city an amount as designated in section 110-24 herein.



**Sec. 110-23. - Service calls.**

- (a) Service calls by city crews after normal working hours and on holidays where the problem is found not to be the fault of city, shall be billed to the utility customer at a per call rate as designated by section 110-24, herein. For purposes of this subsection, normal working hours are 8:00 am until 5:00 pm, Monday through Friday.
- (b) A reconnect fee, as designated by section 110-24, herein, shall be charged for all reconnections regardless of whether they are voluntary or involuntary.
- (c) A service call fee, as designated by section 110-24, herein, shall be charged for each service call during normal working hours, for repeated customer-requested service calls on the same issue, where the fault has previously been determined not to be the fault of the city.

**Sec. 110-24. - Fees and charges.**

- (a) The charges assessed in this section shall be assessed against the responsible party as referenced on the application for services.
- (b) Fees and charges for utility services shall be as indicated in all applicable articles of this section.
- (c) Deposits for utility services shall be as follows:
  - (1) Deposits for residential utility services shall be a minimum of \$200.00 for one or any combination of services, except as noted in subsections (3) and (4) of this section. Residential deposits are subject to adjustment in accordance with section 110-6(e) herein.
  - (2) For accounts other than residential, the city may review the past usage of the property to be connected and if the property has an average monthly usage of greater than \$250.00 for the utility to be connected, the city may require a credit check and an increased deposit of not greater than the average bill for the past 12 months of usage at the property to be connected. For newly developed properties not having a 12-month history of usage, the city may review a substantially similar property to establish the deposit.
  - (3) Utility deposits for temporary construction or maintenance work on a property shall be a minimum of \$100.00. Lease, rental, sale and/or occupation of the property shall nullify the temporary status of the property and the tenant/owner shall place a deposit as required in applicable sections herein.
  - (4) Residential service consisting of refuse or garbage collection only, shall pay a deposit of \$50.00. Commercial service consisting of refuse or garbage collection only, shall pay a deposit of \$150.00.
- (d) A transfer fee shall be assessed as provided for in section 110-5, herein, and shall be \$30.00.



(e) Service call fees shall be assessed as provided for in section 110-23, herein, and shall be as follows:

- (1) The reconnect fee shall be \$30.00;
- (2) The after-hours fee shall be \$75.00;
- (3) The service call fee shall be \$75.00.

**Sec. 110-25. - Reserved.**

## **ARTICLE II. - WATER**

---

Sec. 110-26. - Volumetric rate.

Sec. 110-27. - Minimum charge.

Sec. 110-28. - City water sold at premises with water meters.

Sec. 110-29. - Water tap charges.

Sec. 110-30. - Service outside city limits.

Sec. 110-31. - Shutoff valves.

Sec. 110-32. - Curb cock required in every service line.

Sec. 110-33. - Testing meters; costs.

Sec. 110-34. - Computation of water bills.

Sec. 110-35. - No free service.

Sec. 110-36. - Bulk water sales.

Secs. 110-37—110-39. - Reserved.

Sec. 110-40. - Drought contingency and water emergency plan.

Secs. 110-41—110-60. - Reserved.

### **Sec. 110-26. - Volumetric rate.**

The volumetric rate is defined as the rate charged per 1,000 gallons of water metered in any given billing period. There is hereby established the following volumetric rates per billing period for consumers and users of the municipal water system, as specified herein:

#### *Residential:*

0 to 4,000 gallons \$3.74 per 1,000 gallons, or fraction thereof

4,001 to 40,000 gallons \$4.68 per 1,000 gallons, or fraction thereof

> 40,000 gallons \$5.84 per 1,000 gallons, or fraction thereof



*Commercial:*

0 to 2,000 gallons \$4.63 per 1,000 gallons, or fraction thereof  
> 2,000 gallons \$5.79 per 1,000 gallons, or fraction thereof; (Code 1979, ch. 10, § 2(A); Ord. No. 84-14, § 1, 7-10-84; Ord. No. 85-16, § 1, 6-25-85; Ord. No. 86-7, § 1, 4-22-86; Ord. No. 87-4, § 1, 1-13-87; Ord. No. 87-13, § I, 6-23-87; Ord. No. 88-2, § 1, 1-12-88; Ord. No. 92-8, § 1, 10-27-92; Ord. No. 93-14A, § 1, 10-12-93; Ord. No. 95-10, § 1, 3-14-95; Ord. No. 2001-20, § 1, 9-27-01; Ord. No. 2006-19, § 2, 8-8-06; Ord. No. 2011-08, § 1, 8-9-11)

**Sec. 110-27. - Minimum charge.**

There shall be a minimum charge per billing period, or fraction thereof, that water is available for use. The minimum charge shall depend on the size of the meter connection.

The minimum water charge inside the city limits shall be:

5/8-inch	.....\$25.00
1-inch	.....35.00
1¼-inch	.....40.00
1½-inch	.....45.00
2-inch	.....72.50
3-inch	.....275.00
4-inch	.....350.00
6-inch	.....525.00

**Sec. 110-28. - City water sold at premises with water meters.**

Water from the city water system shall be sold and delivered by the city through its mains only to persons at whose premises water meters are installed, from water meter readings and water meter computations only as follows:

- (1) *Each meter constitutes a separate service.* Each meter installed at any premises shall constitute a separate service and must be paid for as such, except as provided in subsection (6) of this section.
- (2) *Separate meter for each residence or building in new service.* For any water service installed after December 9, 1980, each individual residence or building making connection with the city water system shall have a separate meter, and no new connections shall be made by the city unless such individual residence or building is separately metered, except as provided in subsection (6) of this section.
- (3) *Multiple use of meter in existing building.* In existing cases where more than one building is served by a single meter, the entire amount of water consumed and registered through such meter shall be billed to the building



nearest the meter and shall include an additional minimum for each and every other building served by such meter. Such procedure shall continue until such buildings are separately metered.

- (4) *Tourist courts and trailer parks.* Any number of houses on one plot of ground owned by one person and constituting a bona fide tourist court shall be entitled to water service from one meter. All trailer and mobile home parks will meter each and every unit separately, and all individual mobile homes will be on separate meters.
- (5) *One meter for two or more houses presently so connected.* In all cases where two or more houses or buildings are served by one meter, separate charges shall be made for each house and building, and no allowance shall be made for a vacancy of either house or building unless the owner shall furnish satisfactory proof to the council that water service to such house or building has been disconnected; and at the same time by written application agrees that in the event of a reconnection, the same separate charge be paid therefor.
- (6) *Two or more connections; master metered.* Upon the approval of the city manager, two or more units may be served through a master meter under the following conditions: For each and every unit so served, a minimum rate will be charged in accordance with the current rate structure. For each unit being charged a minimum, there will be an allowance of 2,000 gallons per unit. Example: If there are ten units, there will be an allowance of 20,000 gallons. Additional water usage will be charged in accordance with the current rate structure. The provisions for minimum charges set out in section 110-27 shall not apply when such units are master metered.

**Sec. 110-29. - Water tap charges.**

- (a) *Schedule.* It is hereby provided that the following schedule of charges will be made for providing connections with the municipal waterworks system for the purpose of securing use of the facilities, service and products of such water system:  
Water tap charge .....\$525.00  
Each building or residence will be classified as a separate connection.
- (b) *Description of service.* The above schedule includes the cost of tapping the water main (up to a 6" main), furnishing and installing water meter and curb stop at the consumer's property line and extending the water service line to the property line or within 50 feet of the property, whichever is nearest to the city main. Any costs associated with a connection to mains in excess of 6" will be the responsibility of the applicant.
- (c) *Additional cost of service.* Any tap, whether standard or non-standard, that requires cutting across a right-of-way, cutting through rock to lay the utility lines, oversized tap saddles, and all costs associated with easement acquisition (land surveying,



easement purchase price, attorney fees, additional staff time) etc., will have the cost for the additional services added to their installation bill and be the sole responsibility of the applicant.

- (d) *Payment made prior to connection.* Thereafter, the municipal waterworks system shall maintain meter and service line from meter to the main as long as the service connection is active. The payment or an estimated amount of cost shall be paid or deposited before the connection will be made.

**Sec. 110-30. - Service outside city limits.**

The fees for service established in section 110-26 and section 110-27 shall be increased by a multiplier of 1.15 times for water customers whose connection is located outside the city limits.

**Sec. 110-31. - Shutoff valves.**

In all new water service connections made after December 9, 1980, and in all cases where house service line is repaired or replaced, there shall be one or more approved shutoff valves attached to every supply line on the customer side of the meter.

**Sec. 110-32. - Curb cock required in every service line.**

There shall be a curb cock in every service line placed between the meter and the water main. The curb cock shall be for the exclusive use of the municipal waterworks employees.

**Sec. 110-33. - Testing meters; costs.**

The city shall from time to time check and test all meters for accuracy, and, if at any time the consumer desires to have the meter tested for accuracy, the testing shall be done by the city. When the test is made at the request of the consumer, a fee based on the actual cost shall be charged therefor to the consumer if the meter tests 97 percent or more accurate. If the meter registers less than 97 percent accurate, it shall be replaced and repaired before installation on another service, and no charge shall be made.

**Sec. 110-34. - Computation of water bills.**

All charges for water consumption to any user under any of the rate schedules, as set forth in sections 110-26 and 110-28, where the amount of water consumed or used exceeds the minimum provided, the bill shall be figured upon the amount of water actually used, and where a fractional portion of 1,000 gallons is used, the charge shall be figured in brackets of 100 gallons to the closest 100 gallon reading on a proportionate scale of rates.



**Sec. 110-35. - No free service.**

It is hereby declared illegal and unlawful for anyone to obtain the services of or to consume any products of the municipal waterworks system free of charge. All water connections shall be metered, and the consumer shall make payments according to the reading of the meter at the rates prescribed in this article.

**Sec. 110-36. - Bulk water sales.**

The fees for bulk water sales shall be equal to the commercial rate for over 2,000 gallons as defined in the volumetric rates of this chapter.

**Secs. 110-37—110-39. - Reserved. Sec. 110-40. - Drought contingency and water emergency plan.**

There is hereby adopted as the official policy of the city a drought contingency and water emergency plan. The plan is not set out at length in this section, but is on file as an attachment to Ord. No. 2011-10 and is available for inspection in the office of the city secretary.

**Secs. 110-41—110-60. - Reserved.**