

City of Houston, Texas, Ordinance No. 2023-1127

AN ORDINANCE AMENDING CHAPTER 47 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO WATER BILL RELIEF; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, Chapter 47 of the Code of Ordinances, Houston, Texas, ("Chapter 47") contains the City's regulatory programs applicable to water and wastewater service, rates, and charges applicable to the City's water and wastewater systems; and

WHEREAS, Chapter 47 contains provisions that address water and wastewater billing and provide relief to water and wastewater customers for anomalous water usage, such as a defect in the customer's water service line, unusually large water bills attributable to an unknown cause, or exceptional circumstances; and

WHEREAS, Houston Public Works ("HPW") advises that after reviewing the current provisions in Chapter 47 that address water billing, the current provisions are insufficient to fully address situations such as water leaks which are undetected by the customer through no fault of the customer, and are not related to negligence or deferred maintenance and the customer obtains little to no beneficial water usage, and which result in unreasonably high balances for water and wastewater consumption, even after the customer receives some relief under existing ordinances; and

WHEREAS, the HPW finds that it would be beneficial to provide a mechanism for vacant lots to suspend the monthly basic service charge; and

WHEREAS, the HPW finds that there would be a cost savings to the City and it would further the City's green initiatives if HPW provides a \$0.50 rebate to customers who switch from a paper bill to a paperless bill (electronic billing); and

WHEREAS, the City finds that it is in the public interest to control the risk of potential litigation, provide relief to water and wastewater customers by amending the current ordinances under Chapter 47; and

WHEREAS, HPW recommends City Council approve the amendments to Chapter 47 of the Code described below; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Section 47-65 of the Code of Ordinances, Houston, Texas, is hereby deleted and replaced with new Sections 47-65 to read as follows:

“Sec. 47-65. Billing errors—In general.

Subject to the provisions of this article, the department shall charge for all water that passes through the water meter.

If the department commits a billing error, it shall correct the customer's bill as soon as it discovers the incorrect billing. If the incorrect billing is an overcharge that is more than six times the customer's average bill, the department shall refund the overcharge to the customer at the request of the customer. Provided, however, if the customer can show extreme economic hardship to the utility official, the department shall refund the overcharge to the customer notwithstanding the amount of the overcharge. The utility official shall determine whether extreme economic hardship exists. In cases where the overcharge is not refunded, the department shall credit the customer's account the amount of the overcharge to be applied to the charges thereafter accruing.

Subject to the provisions of this article, for non-residential customers, contract treated water customers, or contract untreated water customers, the department may not correct any billing error that occurred more than two years prior to the date the department learns of the error. For residential customers, if the correction results in a credit for the customer, the department shall correct the error that occurred up to two years prior to the date the department learns of the error. If the correction results in the residential customer owing the department money, the department shall correct the error that occurred up to three months prior to the date the department learns of the error. However, in the case of fraud or theft of city water or sewer service, the city reserves the right to recover the amount owed by the customer back to the date of the fraud or theft.”

Section 3. That Section 47-74 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 47-74. Adjustment of bill as result of defect in customer's line.

- (a) Any residential, commercial, multifamily or outdoor customer of the city may request an adjustment of any water bill showing excess usage due to a loss of water through an excusable defect in the customer's water line for a period not to exceed three consecutive months. To apply for the adjustment the customer must file a sworn written application or an application that conforms to minimum state law requirements for unsworn declarations with the director within six months of the repair of the excusable defect.. There are no limit to the number of times customers may apply for and receive adjustments under this section. . The director shall promulgate all necessary adjustment application forms. The adjustment application shall contain the following information and any other information as the director may require:
- (1) The name of the applicant, the address or description of the property or premises furnished water, the bills which are sought to be adjusted, the date of the bill and the period of water usage covered thereby.
 - (2) A statement of the date on which the excusable defect in the applicant's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.
 - (3) A written acknowledgment that the applicant makes the statements shown on the application and swears to their veracity for the purpose of inducing the city to grant a reduction in the amount of the water bill for which an adjustment is requested.
 - (4) An indication of any additional water consuming devices placed in use on the applicant's premises during the period covered by such bill.
 - (5) Documentation shall be submitted detailing the exact nature and date of repairs to the applicant's water line.
 - (6) A statement that the applicant is personally familiar with all the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.

- (7) A statement executed by the applicant setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and the applicant's certification that the application contains no false statements.
- (b) Upon receipt of a properly completed application, the director shall review the application for completeness and to determine if the applicant has been a customer for a sufficient length of time to make an adjustment determination. If the applicant has not been a customer for a sufficient length of time needed to determine normal consumption as determined by the director, then the department shall defer the adjustment for a sufficient period of time needed to calculate the customer's average water usage. If the applicant qualifies for an adjustment, by meeting the requirements set out in subsection 47-74(a) of this Code, then the applicant's bill shall be adjusted as follows:

- (1) For an excusable defect in a customer's line that is not a city-caused leak, if the customer repairs the leak within 30 days of receipt of a bill that first reflects the leak, the customer shall be billed only at their established rate for customers in the applicant's rate classification applied to the average usage and this is the only amount that will be charged. There will be no additional charge for excess usage.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (2) For an excusable defect in a customer's line that is not a city-caused leak that is repaired between 30 and 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-fourth of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (3) For an excusable defect in a customer's line that is not a city-caused leak that is repaired after 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-half of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (4) For leak adjustments calculated under subsection (b)(2) or subsection (b)(3) there will not be any associated sanitary charges as calculated under Section 47, Article III related to the one-fourth or one-half excess usage charge.
- (5) For an excusable defect in a customer's line that is documented and verified by the city as a city-caused leak, a rate of charge equal to the established rate of such water usage by a customer in the applicant's classification shall be applied to the applicant's average water usage derived in the leak calculation, which determines the customer's normal usage and excludes charges for the customer's excess usage to determine the amount the applicant must pay for water usage during the period specified in the customer's application.
- (c) If the applicant has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the applicant's average bill, the department shall credit the applicant's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the applicant can show extreme economic hardship to the director, the department shall refund the amount of the adjustment as specified in section 47-74.1 of this Code. The director shall determine whether extreme economic hardship exists.
- If an applicant discontinues water service before subsequent charges have depleted the credit, the department shall refund to the applicant at the time of discontinuance the remaining credit balance minus any overdue debt the applicant owes the city.
- (d) Except as provided by section 47-75.2 of this Code, a determination by the director of the amount of an adjustment to be made in an applicant's water bill in accordance with the provisions of this section shall be final. "

Section 4. That Section 47-74.1 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 47-74.1. Leak balance remaining adjustment.

- (a) Any single-family residential customer with a leak balance remaining (LBR) may request a leak balance remaining adjustment. As used in this section the term leak balance remaining means a water bill amount due that is derived from excess usage that remains after the director's approval of a billing adjustment under section 47-74 of this Code. The LBR includes only water and sewer service charges on the customer's account and may include usage billed in consecutive months prior to or after the months adjusted under section 47-74 of this Code.
- (b) To qualify for an LBR adjustment, the LBR must be greater than \$1,000.00. For elderly customers who meet the eligibility criteria for elderly residents in section 36-62 (1) of this Code, the LBR must be greater than \$100.00. Customers requesting an LBR adjustment shall submit an LBR adjustment application on a form prescribed by the director. The application form shall contain a statement requiring the applicant to affirm its understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and a statement that the application contains no false statements.
- (c) A customer requesting an LBR must demonstrate that he:
 - (1) Is the named account holder of record at the time that the excusable defect occurred;
 - (2) Qualified for and received an adjustment under section 47-74 of this Code;
 - (3) Had an excusable defect in the line that was not a city-caused leak;
 - (4) Worked with the customer account services' (CAS) collections team and exhausted the CAS recommended assistance options prior to submitting the LBR adjustment application;
 - (5) Submitted the LBR adjustment application within 30 days after the date on which an approved adjustment

- for the defect in the customer's line appeared on the bill; and
- (6) Had not received an LBR adjustment on the account during the past 12-month period.
- (d) Upon receipt of a completed LBR adjustment application, the director shall review the application and if the director approves the application as being eligible for an adjustment under this section, the customer's bill shall be adjusted as follows:
- (1) For customers with a leak balance remaining greater than \$1,000.00, the leak balance remaining shall be adjusted to \$1,000.00.
 - (2) Notwithstanding item (1) of this subsection, for eligible elderly customers with a leak balance remaining greater than \$100.00, the leak balance remaining shall be adjusted to \$100.00.
- (e) The LBR billing adjustment will be applied to the customer's account upon full payment of the amount owed after the LBR adjustment.
- (f) The director shall offer a customer who receives a LBR adjustment a payment agreement to pay any remaining balance on the account in monthly installments.
- (g) In the event of extraordinary circumstances and when reasonable effort was made by customer to remedy the defect in the water line in a timely manner, the director may consider additional qualifying conditions as prescribed in departmental procedures.
- (h) Within ten days of the customer notification of the LBR decision, the customer may request an internal review by the department; however, the decision of the director or the director's designee following the internal review is final. There are no rights for further administrative review, an administrative hearing, or any further proceedings or appeals regarding the LBR Adjustment Application and/or the LBR Adjustment under this section.
- (i) Customers may receive no more than one LBR adjustment in any 12-month period for any one account.

Section 5. That Section 47-75 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 47-75. Adjustment of unusually large bill.

(a) Any single-family residential customer who receives a water bill for any given month that is greater than 200 percent of the average usage of the customer, the customer may request an adjustment of the bill in the manner provided in this section. Provided, that the customer must make an application within six months of receipt of such bill and only one such monthly bill out of any 12 consecutive monthly bills may be adjusted under this section. If the applicant has not been a customer for a sufficient length of time for the department to determine average usage, the department shall delay the adjustment until it can calculate the average usage. In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill and briefly state:

- (1) The reasons for the request for the adjustment;
- (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
- (3) That there have been no plumbing repairs or necessity therefor during the month for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and
- (4) Such other information as the utility official may require.

(b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official

concludes that, in all reasonable probability, the customer consumed and was charged for more water during the month in question but is unable to actually account for such unusual quantity, the utility official shall recompute the bill using as the gross quantity 125 percent of the average monthly gross quantity applicable to the customer. Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.

- (c) If the customer has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the customer's average bill, the department shall credit the customer's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the customer can show extreme economic hardship, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If a customer discontinues water service before subsequent charges have depleted the credit, the department shall refund to the customer at the time of discontinuance the remaining credit balance minus any overdue debt the customer owes the city.”

Section 6. That Section 47-75.1 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec 47-75.1. Exceptional circumstances adjustment.

- (a) Under exceptional circumstances as identified in this section, any billed amount in excess of two times the average monthly bill of a commercial, residential or not-for-profit account may be reduced by up to \$10,000.00 for one occurrence that does not exceed a timeframe of two billing cycles. To receive this credit, the following criteria will be used:
 - (1) The usage must exceed the customer's average monthly usage by at least two times; and
 - (2) Based on an investigation conducted by the department as described in section 47-75 of this Code, the evidence clearly establishes that such

increased usage was not the result of the customer's failure to take action reasonably calculated to address the problem.

- (b) A customer may receive no more than one exceptional circumstances adjustment in a 24 month period.
- (c) The adjustment may not be combined with any other adjustment granted pursuant to this chapter for a single incident.
- (d) In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under Chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill(s) and briefly state:
 - (1) The reasons for the request for the adjustment;
 - (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
 - (3) Information on any plumbing repairs or necessity therefor during the month(s) for which an adjustment is sought; and
 - (4) Such other information as the utility official may require.
- (e) A customer may request a hearing regarding this section following the process set forth in section 47-70.1 of this Code.
- (f) Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final."

Section 7. That Section 47-61 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new subsection (g) that reads as follows:

- "(g) Paperless Billing rebate. The director is authorized to offer customers a paperless billing rebate for switching from paper billing

to paperless billing. The initial rebate is set at \$0.50, the director may adjust the rate once per year based on changes in costs.”

Section 8. That Section 47-63 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 47-63. Minimum monthly charges generally.

- (a) Wherever meters are connected to the city's water distribution system, the minimum monthly charges called for in section 47-61 of this Code shall apply (except as otherwise specifically provided in this chapter), regardless of whether or not any water is actually used or consumed and regardless of whether or not the premises to which connection is made have water service from another source. Where more than one meter is used to serve the premises, the total charge for water service shall be computed as if each were connected to separate premises, except a multifamily residential customer that has established an umbrella account shall pay the minimum monthly charge based on the size of its largest meter only.
- (b) The department shall create a meter lock fee and place such a fee on the city fee schedule.
- (c) If a meter lock can be placed on the meter, a customer may request that the department place a lock on the meter. Once the department determines that a lock can be placed, the department will place a lock on the meter after the customer pays a one-time fee. Once the meter is locked, then the defined charge described in section 47-61 shall be suspended from their account until service is restored.
- (d) During the suspension of service through this section, if the department determines that the meter lock has been tampered with but the meter did not register water usage, then the one-time replacement fee will be re-assessed and there will be no other penalty.
- (e) During the suspension of service through this section, if the department determines that the meter lock has been tampered with and the meter registered water usage, a fine

as described under Section 47.7 may be assessed and all defined charges will be reapplied and reassessed going back to the placement of the meter lock. All defined charges shall be assessed and the owner will be ineligible for a new meter lock.

- (f) When service is reactivated by the customer, if there has been no change to the service unit calculation of the property, then the customer can petition the director to have any impact fees associated with reactivating the account waived. This petition may be rejected if the director finds there has been a change in the service unit calculation to the property.

- (g) The minimum charges called for in section 47-61 of this Code shall be in addition to and not credited against the charges made for installation of the meter and making connections as provided elsewhere in this Code."

Section 9. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

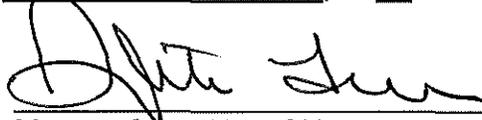
Section 10. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or

invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 11. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 13th day of December, 2023

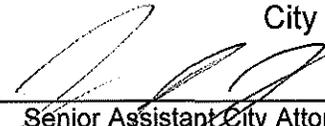
APPROVED this 13th day of December, 2023



Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

Prepared by Legal Dept. 
JTF:dg 12/5/2023 Senior Assistant City Attorney
Requested by Carol Haddock, PE, Director of Houston Public Works
L.D. File No. 0802000241001

Meeting 12/13/2023

Aye	No	
✓		Mayor Turner
....	Council Members
✓		Peck
Absent due to being ill		Jackson
✓		Kamin
✓		Evans-Shabazz
✓		Martin
✓		Thomas
✓		Huffman
✓		Cisneros
✓		Gallegos
✓		Pollard
✓		Castex-Tatum
✓		Knox
✓		Robinson
✓		Kubosh
Absent on personal business		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW

Date: 9/19/2023

Sec. 47-65. Billing errors—In general.

Subject to the provisions of this article, the department shall charge for all water that passes through the water meter.

If the department commits a billing error, it shall correct the customer's bill as soon as it discovers the incorrect billing. If the incorrect billing is an overcharge that is more than six times the customer's average bill, the department shall refund the overcharge to the customer at the request of the customer. Provided, however, if the customer can show extreme economic hardship to the utility official, the department shall refund the overcharge to the customer notwithstanding the amount of the overcharge. The utility official shall determine whether extreme economic hardship exists. In cases where the overcharge is not refunded, the department shall credit the customer's account the amount of the overcharge to be applied to the charges thereafter accruing.

Subject to the provisions of this article, for non-residential customers, contract treated water customers, or contract untreated water customers, the department may not correct any billing error that occurred more than two years prior to the date the department learns of the error. For residential customers, if the correction results in a credit for the customer, the department shall correct the error that occurred up to two years prior to the date the department learns of the error. If the correction results in the residential customer owing the department money, the department shall correct the error that occurred up to three months prior to the date the department learns of the error. However, in the case of fraud or theft of city water or sewer service, the city reserves the right to recover the amount owed by the customer back to the date of the fraud or theft.

Sec. 47-74. Adjustment of bill as result of defect in customer's line.

- (a) Any residential, commercial, multifamily or outdoor customer of the city may request an adjustment of any water bill showing excess usage due to a loss of water through an excusable defect in the customer's water line for a period not to exceed three consecutive months. To apply for the adjustment the customer must file a sworn written application or an application that conforms to minimum state law requirements for unsworn declarations with the director within six months of the repair of the excusable defect ~~Customers may apply for no more than two such adjustments in any 12-month period for any one account~~ There are no ~~limits~~ limit to the number of times customers may apply for adjustments ~~in any 12-month period for any one account related to a leak resulting from an excusable defect in a customer's line that the department has documented and verified as a city caused leak~~ receive adjustments under this section. The director shall promulgate all necessary adjustment application forms. The adjustment application shall contain the following information and any other information as the director may require:
- (1) The name of the applicant, the address or description of the property or premises furnished water, the bills which are sought to be adjusted, the date of the bill and the period of water usage covered thereby.
 - (2) A statement of the date on which the excusable defect in the applicant's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.
 - (3) A written acknowledgment that the applicant makes the statements shown on the application and swears to their veracity for the purpose of inducing the city to grant a reduction in the amount of the water bill for which an adjustment is requested.
 - (4) An indication of any additional water consuming devices placed in use on the applicant's premises during the period covered by such bill.
 - (5) Documentation shall be submitted detailing the exact nature and date of repairs to the applicant's water line.
 - (6) A statement that the applicant is personally familiar with all the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.
 - (7) A statement executed by the applicant setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and the applicant's certification that the application contains no false statements.
- (b) Upon receipt of a properly completed application, the director shall review the application for completeness and to determine if the applicant has been a customer for a sufficient length of time to make an adjustment determination. If the applicant has not been a customer for a sufficient length of time needed to determine normal consumption as determined by the director, then the department shall defer the

adjustment for a sufficient period of time needed to calculate the customer's average water usage. If the applicant qualifies for an adjustment, by meeting the requirements set out in subsection 47-74(a) of this Code, then the applicant's bill shall be adjusted as follows:

- (1) For an excusable defect in a customer's line that is not a city-caused leak, if the customer repairs the leak within 30 days of receipt of a bill that first reflects the leak, the customer shall be billed only at their established rate for customers in the applicant's rate classification applied to the average usage and this is the only amount that will be charged. There will be no additional charge for excess usage.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (2) For an excusable defect in a customer's line that is not a city-caused leak that is repaired between 30 and 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-fourth of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (3) For an excusable defect in a customer's line that is not a city-caused leak that is repaired after 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-half of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (4) For leak adjustments calculated under subsection (b)(2) or subsection (b)(3) there will not be any associated sanitary charges as calculated under Section 47, Article III related to the one-fourth or one-half excess usage charge.
- (5) For an excusable defect in a customer's line that is documented and verified by the city as a city-caused leak, a rate of charge equal to the established rate of such water usage by a customer in the applicant's classification shall be applied to the applicant's average water usage derived in the leak calculation, which determines the customer's normal usage and excludes charges for the customer's excess usage to determine the amount the applicant must pay for water usage during the period specified in the customer's application.
- (c) If the applicant has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the applicant's average bill, the department shall credit the applicant's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the applicant can show extreme economic hardship to the director, the department shall refund the amount of the adjustment as specified in section 47-74.1 of this Code. The director shall determine whether extreme economic hardship exists.
- If an applicant discontinues water service before subsequent charges have depleted the credit, the department shall refund to the applicant at the time of discontinuance the remaining credit balance minus any overdue debt the applicant owes the city.
- (d) Except as provided by section 47-75.2 of this Code, a determination by the director of the amount of an adjustment to be made in an applicant's water bill in accordance with the provisions of this section shall be final.

Sec. 47-74.1. Leak balance remaining adjustment.

- (a) Any single-family residential customer with a leak balance remaining (LBR) may request a leak balance remaining adjustment. As used in this section the term leak balance remaining means a water bill amount due that is derived from excess usage that remains after the director's approval of a billing adjustment under section 47-74 of this Code. The LBR includes only water and sewer service charges on the customer's account and may include usage billed in consecutive months prior to or after the months adjusted under section 47-74 of this Code.
- (b) To qualify for an LBR adjustment, the LBR must be greater than ~~\$2,000.00~~ 1,000.00. For elderly customers who meet the eligibility criteria for elderly residents in section 36-62 (1) of this Code, the LBR must be greater than ~~\$250~~ 100.00. Customers requesting an LBR adjustment shall submit an LBR adjustment application on a form prescribed by the director. The application form shall contain a statement requiring the applicant to affirm its understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and a statement that the application contains no false statements.
- (c) A customer requesting an LBR must demonstrate that he:
 - (1) Is the named account holder of record at the time that the excusable defect occurred;
 - (2) Qualified for and received an adjustment under section 47-74 of this Code;
 - (3) Had an excusable defect in the line that was not a city-caused leak;
 - (4) Worked with the customer account services' (CAS) collections team and exhausted the CAS recommended assistance options prior to submitting the LBR adjustment application;
 - (5) Submitted the LBR adjustment application within 30 days after the date on which an approved adjustment for the defect in the customer's line appeared on the bill; and
 - (6) Had not received an LBR adjustment on the account during the past 12-month period.
- (d) Upon receipt of a completed LBR adjustment application, the director shall review the application and if the director approves the application as being eligible for an adjustment under this section, the customer's bill shall be adjusted as follows:
 - (1) For customers with a leak balance remaining greater than ~~\$2,000.00~~ 1,000.00, the leak balance remaining shall be adjusted to ~~\$2,000.00~~ 1,000.00.
 - (2) Notwithstanding item (1) of this subsection, for eligible elderly customers with a leak balance remaining greater than ~~\$250.00~~ 100.00, the leak balance remaining shall be adjusted to ~~\$250.00~~ 100.00.
- (e) The LBR billing adjustment will be applied to the customer's account upon full payment of the amount owed after the LBR adjustment.

- (f) The director shall offer a customer who receives a LBR adjustment a payment agreement to pay any remaining balance on the account in monthly installments.
- (g) In the event of extraordinary circumstances and when reasonable effort was made by customer to remedy the defect in the water line in a timely manner, the director may consider additional qualifying conditions as prescribed in departmental procedures.
- (h) Within ten days of the customer notification of the LBR decision, the customer may request an internal review by the department; however, the decision of the director or the director's designee following the internal review is final. There are no rights for further administrative review, an administrative hearing, or any further proceedings or appeals regarding the LBR Adjustment Application and/or the LBR Adjustment under this section.
- (i) Customers may receive no more than one LBR adjustment in any 12-month period for any one account.

Sec. 47-75. Adjustment of unusually large bill.

- (a) Any single-family residential customer who receives a water bill for any given month that is greater than 200 percent of the average usage of the customer, the customer may request an adjustment of the bill in the manner provided in this section. Provided, that the customer must make an application within six months of receipt of such bill and only one such monthly bill out of any 12 consecutive monthly bills may be adjusted under this section. If the applicant has not been a customer for a sufficient length of time for the department to determine average usage, the department shall delay the adjustment until it can calculate the average usage. In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill and briefly state:
- (1) The reasons for the request for the adjustment;
 - (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
 - (3) That there have been no plumbing repairs or necessity therefor during the month for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and
 - (4) Such other information as the utility official may require.
- (b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official concludes that, in all reasonable probability, the customer consumed and was charged for more water during the month in question but is unable to actually account for such unusual quantity, the utility official shall recompute the bill using as the gross quantity ~~450~~125 percent of the average monthly gross quantity applicable to the customer. Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.
- (c) If the customer has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the customer's average bill, the department shall credit the customer's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer

requests a refund, or the customer can show extreme economic hardship, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If ~~an~~a customer discontinues water service before subsequent charges have depleted the credit, the department shall refund to the customer at the time of discontinuance the remaining credit balance minus any overdue debt the customer owes the city.

Sec 47-75.1. Exceptional circumstances adjustment.

- (a) Under exceptional circumstances as identified in this section, any billed amount in excess of ~~five~~two times the average monthly bill of a commercial, residential or not-for-profit account may be reduced by up to ~~\$4,000.00~~10,000.00 for one occurrence that does not exceed a ~~two-month~~ timeframe of two billing cycles. To receive this credit, the following criteria will be used:
 - (1) The usage must exceed the customer's average monthly usage by at least ~~five~~two times; and
 - (2) Based on an investigation conducted by the department as described in section 47-75 of this Code, the evidence clearly establishes that such increased usage was not the result of the customer's failure to take action reasonably calculated to address the problem.
- (b) A customer may receive no more than one exceptional circumstances adjustment in a 24 month period.
- (c) The adjustment may not be combined with any other adjustment granted pursuant to this chapter for a single incident.
- (d) In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under Chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill(s) and briefly state:
 - (1) The reasons for the request for the adjustment;
 - (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
 - (3) Information on any plumbing repairs or necessity therefor during the month(s) for which an adjustment is sought; and
 - (4) Such other information as the utility official may require.
- (e) A customer may request a hearing regarding this section following the process set forth in section 47-70.1 of this Code.
- (f) Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.

Sec. 47-61. Charges for treated water service generally.

- (a) *Generally.* Except as otherwise specifically provided for in this chapter and as further defined below, the charge for treated water service furnished by the city in any given month to any given customer shall include all water that passes through the customer's meter and shall be the monthly water charge applicable to such customer, plus any applicable miscellaneous charges accruing in accordance with this chapter or the appendices of this Code, provided, however, single-family residential customers may be charged the conservation rate as defined in subsection (b) of this section. Single-family residential customers using more than 3,000 gallons in a month will be charged at the incremental rate for all their water usage and are not eligible for the conservation rate in that month. Additionally, compliance with all applicable laws is a condition of continued utility service.
- (b) *Definitions.* As used in articles I and II of this chapter, the following terms shall have the meanings set out below, unless the context clearly indicates that another meaning is intended:

Additional quantity means the customer's monthly water usage over a gross quantity with a defined charge. The charge for additional quantity shall be computed for each month using the applicable incremental rate.

Applicable laws means, but is not limited to limitations, restrictions, conditions, standards, prohibitions and requirements established in this Code, and any law, statute, ordinance, rule, regulation, order or determination of any government authority with jurisdiction, such as, for example, the Texas Commission on Environmental Quality. Applicable laws include, without limitation, all applicable provisions of the Texas Water Code, zoning ordinances, building codes, flood rules and regulations, health laws and regulations and environmental laws.

Average usage means the customer's average monthly water usage as determined by the utility official on the basis of historical usage and other relevant factors.

Basic service means fire protection, metering, administrative, billing, and other services related to water service that the customer receives and pays for regardless of the customer's consumption or lack of consumption of treated water furnished by the city. Fire protection included in basic service does not include metered or unmetered fire lines.

City-caused leak means a defect in the customer's line caused by a city employee or city contractor during and within the scope of their authorized work on city projects which led directly to a loss of water that registered as consumption on the customer's water meter.

Commercial fire line service means service to a water supply system that has been installed for the sole purpose of fire protection and does not register any usage except as needed for fire protection or standard maintenance and testing as required by NFPA 25 Standards.

Conservation rate means the reduced volume rate charged to single-family residential users for water usage of 3,000 gallons or less in a month.

Contract treated water customer means a customer who has contracted with the city to receive treated water under subsection 47-61(f) below.

Customer means any person who has applied for or contracted with the city for water service, the owner of a property with a meter connected for water service, or any person who resides at the address where the city provides the water service at the time the monthly charges are incurred. A customer may have more than one meter and more than one property with water service.

Defined charge means the monthly charge for basic service.

Disabled veteran means a veteran of the armed forces entitled to receive compensation for service connected disability under the laws of the United States.

Emergency means a mechanical, electrical, or systemic failure of the waterworks system of an EBS customer, such that the failure significantly affects the EBS customer's ability to supply water to its own water customers. An emergency shall not mean a water shortage or a greater than expected water use by the EBS customer's own water customers, nor shall it mean a circumstance or condition caused by ordinary wear and tear of the EBS customer's facilities.

Emergency backup service customer or *EBS customer* means any customer who (i) would otherwise be a resale customer or contract treated water customer, (ii) has submitted an application for emergency backup service approved by the utility official, (iii) has installed and conveyed an EBS system to the city in accordance with this Code; and (iv) has not had the EBS terminated by the utility official.

Excess usage means and refers to the difference between the total water consumption shown on the customer's bill and the customer's average usage.

Excusable defect means a rupture or leakage of the customer's water lines caused by city personnel, a city contractor, freezing weather, settlement, corrosion, or accidental occurrence not caused by customer negligence or disregard of waterline or fixture maintenance. The term does not apply to any defective or out-of-repair plumbing fixtures that are exchangeable devices or components attached to the plumbing system to deliver and drain water.

Exempt senior customer means any customer who (i) is at least 60 years old; (ii) is a residential customer occupying the entire premises for which exempt senior customer status is requested; (iii) has filed with the department a request for exempt senior customer status; and (iv) provides all necessary information as requested by the utility official.

Gross quantity means the total quantity of water actually delivered to a customer's meter during a month.

Incremental rate means the rate charged to a customer for monthly water usage that is not included in a defined charge.

Industrial customer or commercial customer means any non-residential customer with retail water service that the utility official determines is not a transient customer, EBS customer, or an outdoor customer.

Month means the billing period for each customer and consists of approximately 30 days. A billing period begins on the date that a customer's measuring equipment is read (or the date as of which the customer's gross quantity is estimated) and ends when the next such reading (or estimation) occurs. There shall be 12 such readings (or estimations) per customer per calendar year, and the date of the most recent reading (or estimation) is usually shown on each water bill.

Monthly water charge means charges to a customer in a given month for water services that include defined charges and charges for additional quantities.

Monthly water usage means services a customer receives including the total gross quantity in increments of 1,000 gallons of treated water attributable to a customer's meter for a given month. Monthly water usage includes basic service and all gross quantity not previously included in the customer's monthly water charge.

Multifamily residential customer means a residential customer whose meter is connected to, or serves exclusively, a residential establishment with more than one unit.

Non-residential customer means a retail customer who (i) has a meter that does not serve a residential establishment and (ii) is not a contract water customer.

Outdoor customer means a customer whose meter is connected to and serves only one of the following:

- (1) A device or system for irrigation or distributing water to any area not enclosed within a permanent roofed structure; or
- (2) One or more spigots, hydrants or outlets for water wholly located outside of a permanent, roofed structure.

No connection or water flow to a city or private sewer is permitted for outdoor customers. If a connection or flow into the sewer is found, the customer's account shall be changed to include water and sewer charges and the department shall bill the customer for all wastewater usage, including any arrearage.

Per-unit gross quantity means the gross quantity for a multifamily residential customer divided by the number of units in the residential establishment of that customer. In the event a person owning a multifamily residential establishment served by more than one meter has established an umbrella account, the gross quantity shall be the total amount of water as measured by all meters serving the establishment during the billing period. Otherwise, a person owning a multifamily residential establishment served by more than one meter shall be considered a separate customer for each meter for the purpose of determining the per-unit gross quantity. If a multifamily residential customer that has not established an umbrella account maintains a water distribution system in which a unit is served by more than one meter, such unit shall be prorated between or among such

meters for the purpose of determining the per-unit gross quantity in accordance with the following formula:

$$\frac{\text{Per unit gross quantity per meter}}{U} = \frac{W}{U}$$

Where:

W = is the total water delivered through such meter during a bill period.

U = is the sum of the units served by the meter, except where a unit is served by x meters such unit shall be counted only as 1/x unit.

In no event shall the sum of units used for the calculation of the "per-unit gross quantities" exceed the actual number of units located at the multifamily residential establishment.

Person means any legally competent individual, business entity, governmental entity, or any combination of individuals or entities legally bound together.

Person with disability has the meaning ascribed in section 36-62 of this Code.

Resale customer means any customer (other than a contract treated water customer, an EBS customer or a transient meter customer) owning or operating for compensation equipment or facilities for transmitting, storing, distributing, selling or furnishing potable water to the public or for resale to the public for any use; provided that the term shall not include any customer that furnishes water only to itself, its employees or tenants as an incident of such employee service or tenants when such water is not resold to or used by others.

Residential customer means any customer whose meter exclusively serves a residential establishment. Residential customers do not include commercial customers, contract treated water customers, EBS customers, industrial customers, outdoor customers, resale customers, or transient customers.

Residential establishment means any structure or group of structures within which at least 75 percent of the floor space (excluding corridors) is occupied or intended for occupancy as living quarters. Residential establishment does not include hotels, motels, inns, lodging houses or any similar establishment in which lodging is furnished for consideration and in which permanent residents occupy less than 80 percent of the accommodations. Residential establishment does not include group quarters. Group quarters are living arrangements for other than ordinary household life, such as dormitories, military barracks, hospitals, assisted care facilities and prisons.

Single-family residential customer means a residential customer whose meter is connected to, or serves exclusively, a residential establishment with one unit.

TCEQ public health service fee means the fee per connection for public water systems pursuant to 30 Texas Administrative Code (TAC) § 290.51(a)(3)—(6). The fee is included in each customer's bill for treated water connections and pays for services provided by the Texas Commission on Environmental Quality, including: scheduling of analysis of drinking water for chemical content; collection of samples

of drinking water for chemical analyses; review of system data for evaluation of sampling waivers; inspection of public water systems; review of plans for new systems and major improvements to existing systems; and, provision of technical assistance as needed.

Transient meter customer means a non-residential customer that has obtained a transient meter from the department for purposes approved by and in accordance with procedures adopted by the utility official.

Umbrella account means a customer account established under section 47-71 of this Code.

Unit means a house, an apartment, a town house, a manufactured home, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with any other persons in the structure and which quarters have either:

- (1) Direct access from the outside of the structure or through a common hall: or
- (2) Complete kitchen facilities for the exclusive use of the occupants.

The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or nonrelated persons who share living arrangements.

(c) *Residential water service.* Each residential customer shall incur monthly charges for water for each meter serving the customer's premises. Multifamily residential customer meters under umbrella accounts may be exempt from certain basic service charges

(1) *Single-family residential customers.* Each single-family residential customer's monthly water charge shall be calculated using the total of the applicable defined charge, the charge for additional quantities, and the TCEQ public health service fee set forth below:

- a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
- b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable incremental rates set forth for this provision in the city fee schedule.
- c. *TCEQ public health service fee.*

(2) *Multifamily residential customers.* Each multifamily residential customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities as set forth below.

- a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the incremental rate set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee.*
- (d) *Non-residential water service.* Non-residential customers shall incur monthly water charges for each meter based upon the customer's meter size, measured by diameter in inches, the charge for additional quantities, plus the TCEQ public health service fee, if applicable, in accordance with the applicable rates set out in the city fee schedule.
- (1) *Resale customers.* Each resale customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below.
 - a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
 - (2) *Outdoor customers.* Each outdoor customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
 - a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
 - (3) *Commercial and industrial customers.* With the exception of a customer with a metered fire connection, which shall be billed as provided in section 47-64(a) of this Code, each commercial customer's monthly water charge and each industrial customer's monthly water charge shall be the total of the defined

charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:

- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (4) *Emergency backup service customer.* Each EBS customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (5) *Reserved.*
- (6) *Transient meter customers.* Each transient meter customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (e) *Emergency backup service (EBS) customer.*

- (1) *Eligibility and applications.* Any person desiring to become an EBS customer must apply to the director. Each EBS application must:
 - a. Be made in a form prescribed by the director; and
 - b. Include engineering drawings and detailed specifications of the applicant's proposed installation of EBS equipment.
- (2) *Action upon applications.* The director shall examine each EBS application. An application shall be approved if the director determines that:
 - a. The applicant can qualify as an EBS customer;
 - b. The requested EBS service is practical and sound from an engineering point of view;
 - c. The proposed installation of EBS equipment meets city standards; and
 - d. The application otherwise complies with this Code.

The director shall allow an applicant to modify its application or its proposed installation of EBS equipment so as to meet any requirements for approval.

- (3) *EBS equipment.*
 - a. All installations of EBS equipment shall include measuring equipment, valves, backflow prevention devices, a locking mechanism, a proper vault and such other items as are necessary in the judgment of the director. All such installations shall conform to city standards as to location, materials and workmanship.
 - b. When the director has approved an application, the applicant shall furnish, deliver and install the EBS equipment at its own expense in strict compliance with this Code and the plans and specifications approved by the director. The applicant shall provide reasonable opportunities for the director to inspect the work as it progresses and shall so notify the director at appropriate times. When the completed installation has been inspected and approved by the director, the applicant shall:
 1. Convey to the city the complete installation (excluding back flow prevention devices) free and clear of liens and encumbrances by written documents approved by the director.
 2. Deliver all keys to the locking mechanism to the director. To the extent an existing, city-owned installation is to be used for the applicant's EBS installation, the foregoing provisions may be modified by the director.
- (4) *Monthly billing and charges.* Each EBS customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities as set forth below:
 - a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.

- b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *Rates and charges.* Rates and charges for each EBS customer begin to accrue on the day its installation is conveyed to the city.
- (5) *Opening and closing connections.* In the event of an emergency, the EBS customer may notify the director of the emergency and request that the EBS connection be unlocked and opened. If the director determines that an emergency exists, the city shall unlock and open the EBS connection. Under no circumstances shall the EBS customer unlock or open the connection or otherwise operate or tamper with the installation. When the emergency has ceased or is deemed to have ceased, the city shall close and lock the EBS connection. The emergency shall be deemed to have ceased when the EBS customer so notifies the director or when 30 days have elapsed after the date of EBS customer notified the director of the emergency, whichever first occurs. If the director determines that an extension of time will not cause undue hardship to the other customers of the city, the director may extend the time the EBS connection is open upon written request of the EBS customer and a showing by that customer that an emergency still exists and that all practicable steps are being taken to correct the circumstances causing the emergency. However, if at any time the director determines that an emergency has actually ceased and consults with the EBS customer, the director may close and lock the connection.
- (6) *Termination of service.* Service to an EBS customer shall be terminated, after reasonable notice to the customer and an opportunity to be heard, if the customer fails to pay any rates or charges within the time allowed or if the customer fails to comply with the other terms of service applicable to such customer. Upon such termination, the connection shall be permanently closed, locked and disconnected, and the rates and charges shall cease accruing.
- (f) *Contract treated water service.*
- (1) *Eligibility and applications.* Applications for contract treated water service shall be made on forms prescribed by the director. Each application shall include the nonrefundable processing fee stated for this provision in the city fee schedule. Any customer or potential customer is eligible for contract treated water service under this subsection if:
- a. The customer is a municipality or conservation and reclamation district organized under article XVI, section 59 of the Texas Constitution that proposes to resell water purchased from the city;
 - b. The customer would otherwise be a commercial customer and has minimum water consumption equal to at least 150,000,000 gallons per month;
 - c. The customer is a private utility company holding a certificate of convenience and necessity from the state that (i) resells water to single family or multi-

- family dwellings only and (ii) maintains a water distribution system in public rights-of-way or public easements; or
- d. The customer would otherwise be a commercial customer and is in compliance with a conservation plan pursuant to chapters 288 and 295 of title 30 Texas Administrative Code to reduce its minimum water consumption from 150,000,000 or more gallons per month while continuing to provide the same or higher levels of production or services.
- (2) *Contract requirements.* Upon receipt of a completed application, the department shall determine water availability and, if sufficient water is available for the customer, shall secure a written agreement from the applicant, which shall include:
- a. The term of the agreement;
 - b. The minimum monthly quantity of water to be taken by the customer. This minimum for customers other than those described under items (1)a, (1)c and (1)d of this subsection shall be 150,000,000 gallons per month. Customers defined under items (1)a, (1)c and (1)d of this subsection shall be permitted to change the minimum monthly quantity only in accordance with the terms of their contracts;
 - c. The designation of the point or points of delivery;
 - d. Rates as described in subsection (f)(3) of this section; and
 - e. Any special requirements regarding metering or facilities desired by the parties.

No agreement for contract treated water service shall be valid unless approved by the city council.

- (3) *Rates and charges.* Treated water supply contract customers shall incur monthly water charges for each meter including a defined charge based on the customer's meter size, measured by diameter in inches, and the volume charge for metered water usage. The contract rate for all water supplied under an untreated water supply contract is as stated in the city fee schedule for the volume of water, including minimum monthly amount and amounts in excess of the minimum monthly amount, as specified in the contract for each customer type as set out below, for treated water supply with airgap or treated water supply without airgap.

For contract treated water customers, the monthly charge shall equal:

$$P \times R$$

plus

$$(P-M) \times F$$

Where:

- P = The total water delivery to such customer during the month expressed in units of 1,000 gallons, except if the minimum monthly amount of water specified in the customer's contract is greater than P, P shall equal M;
- M = The minimum monthly amount of water specified in the customer's contract expressed in units of 1,000 gallons; and
- R = The applicable rate stated for this provision in the city fee schedule contract treated water service with or without airgap. An airgap shall be required of every customer unless the director determines that this requirement be waived because of prior conditions, excessive pressure, or health and safety concerns.
- F = The contract treated water service monthly charge factor stated for this provision in the city fee schedule.

A contract treated water service charge premium per thousand gallons shall apply to amounts taken in excess of the minimum monthly amount.

In the event a billing period is longer or shorter than 30 days, a daily charge shall be determined using the formula specified above, but with P defined as average daily amount of water delivered during the billing period and M defined as the monthly minimum divided by 30. Such daily charge shall then be multiplied by the number of days in the billing period.

(g) Paperless Billing rebate. The director is authorized to offer customers a paperless billing rebate for switching from paper billing to paperless billing. The initial rebate is set at \$0.50, the director may adjust the rate once per year based on changes in costs.

Sec. 47-63. Minimum monthly charges generally.

- (a) Wherever meters are connected to the city's water distribution system, the minimum monthly charges called for in section 47-61 of this Code shall apply (except as otherwise specifically provided in this chapter), regardless of whether or not any water is actually used or consumed and regardless of whether or not the premises to which connection is made have water service from another source. ~~There~~ Where more than one meter is used to serve the premises, the total charge for water service shall be computed as if each were connected to separate premises, except a multifamily residential customer that has established an umbrella account shall pay the minimum monthly charge based on the size of its largest meter only.
- (b) The department shall create a meter lock fee and place such a fee on the city fee schedule.
- (c) If a meter lock can be placed on the meter, a customer may request that the department place a lock on the meter. Once the department determines that a lock can be placed, the department will place a lock on the meter after the customer pays a one-time fee. Once the meter is locked, then the defined charge described in section 47-61 shall be suspended from their account until service is restored.
- (d) During the suspension of service through this section, if the department determines that the meter lock has been tampered with but the meter did not register water usage, then the one-time replacement fee will be re-assessed and there will be no other penalty.
- (e) During the suspension of service through this section, if the department determines that the meter lock has been tampered with and the meter registered water usage, a fine as described under Section 47.7 may be assessed and all defined charges will be reapplied and reassessed going back to the placement of the meter lock. All defined charges shall be assessed and the owner will be ineligible for a new meter lock.
- (f) When service is reactivated by the customer, if there has been no change to the service unit calculation of the property, then the customer can petition the director to have any impact fees associated with reactivating the account waived. This petition may be rejected if the director finds there has been a change in the service unit calculation to the property.
- (g) The minimum charges called for in section 47-61 of this Code shall be in addition to and not credited against the charges made for installation of the meter and making connections as provided elsewhere in this Code.

Sec. 47-65. Billing errors—In general.

Subject to the provisions of this article, the department shall charge for all water that passes through the water meter.

If the department commits a billing error, it shall correct the customer's bill as soon as it discovers the incorrect billing. If the incorrect billing is an overcharge that is more than six times the customer's average bill, the department shall refund the overcharge to the customer at the request of the customer. Provided, however, if the customer can show extreme economic hardship to the utility official, the department shall refund the overcharge to the customer notwithstanding the amount of the overcharge. The utility official shall determine whether extreme economic hardship exists. In cases where the overcharge is not refunded, the department shall credit the customer's account the amount of the overcharge to be applied to the charges thereafter accruing.

Subject to the provisions of this article, for non-residential customers, contract treated water customers, or contract untreated water customers, the department may not correct any billing error that occurred more than two years prior to the date the department learns of the error. For residential customers, if the correction results in a credit for the customer, the department shall correct the error that occurred up to two years prior to the date the department learns of the error. If the correction results in the residential customer owing the department money, the department shall correct the error that occurred up to three months prior to the date the department learns of the error. However, in the case of fraud or theft of city water or sewer service, the city reserves the right to recover the amount owed by the customer back to the date of the fraud or theft.

Sec. 47-74. Adjustment of bill as result of defect in customer's line.

- (a) Any residential, commercial, multifamily or outdoor customer of the city may request an adjustment of any water bill showing excess usage due to a loss of water through an excusable defect in the customer's water line for a period not to exceed three consecutive months. To apply for the adjustment the customer must file a sworn written application or an application that conforms to minimum state law requirements for unsworn declarations with the director within six months of the repair of the excusable defect ~~Customers may apply for no more than two such adjustments in any 12-month period for any one account~~ There are no limits limit to the number of times customers may apply for adjustments ~~in any 12-month period for any one account related to a leak resulting from an excusable defect in a customer's line that the department has documented and verified as a city-caused leak~~ receive adjustments under this section. The director shall promulgate all necessary adjustment application forms. The adjustment application shall contain the following information and any other information as the director may require:
- (1) The name of the applicant, the address or description of the property or premises furnished water, the bills which are sought to be adjusted, the date of the bill and the period of water usage covered thereby.
 - (2) A statement of the date on which the excusable defect in the applicant's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.
 - (3) A written acknowledgment that the applicant makes the statements shown on the application and swears to their veracity for the purpose of inducing the city to grant a reduction in the amount of the water bill for which an adjustment is requested.
 - (4) An indication of any additional water consuming devices placed in use on the applicant's premises during the period covered by such bill.
 - (5) Documentation shall be submitted detailing the exact nature and date of repairs to the applicant's water line.
 - (6) A statement that the applicant is personally familiar with all the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.
 - (7) A statement executed by the applicant setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and the applicant's certification that the application contains no false statements.
- (b) Upon receipt of a properly completed application, the director shall review the application for completeness and to determine if the applicant has been a customer for a sufficient length of time to make an adjustment determination. If the applicant has not been a customer for a sufficient length of time needed to determine normal consumption as determined by the director, then the department shall defer the

adjustment for a sufficient period of time needed to calculate the customer's average water usage. If the applicant qualifies for an adjustment, by meeting the requirements set out in subsection 47-74(a) of this Code, then the applicant's bill shall be adjusted as follows:

- (1) For an excusable defect in a customer's line that is not a city-caused leak, if the customer repairs the leak within 30 days of receipt of a bill that first reflects the leak, the customer shall be billed only at their established rate for customers in the applicant's rate classification applied to the average usage and this is the only amount that will be charged. There will be no additional charge for excess usage.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (2) For an excusable defect in a customer's line that is not a city-caused leak that is repaired between 30 and 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-fourth of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (3) For an excusable defect in a customer's line that is not a city-caused leak that is repaired after 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-half of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (4) For leak adjustments calculated under subsection (b)(2) or subsection (b)(3) there will not be any associated sanitary charges as calculated under Section 47, Article III related to the one-fourth or one-half excess usage charge.
- (5) For an excusable defect in a customer's line that is documented and verified by the city as a city-caused leak, a rate of charge equal to the established rate of such water usage by a customer in the applicant's classification shall be applied to the applicant's average water usage derived in the leak calculation, which determines the customer's normal usage and excludes charges for the customer's excess usage to determine the amount the applicant must pay for water usage during the period specified in the customer's application.
- (c) If the applicant has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the applicant's average bill, the department shall credit the applicant's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the applicant can show extreme economic hardship to the director, the department shall refund the amount of the adjustment as specified in section 47-74.1 of this Code. The director shall determine whether extreme economic hardship exists.
- If an applicant discontinues water service before subsequent charges have depleted the credit, the department shall refund to the applicant at the time of discontinuance the remaining credit balance minus any overdue debt the applicant owes the city.
- (d) Except as provided by section 47-75.2 of this Code, a determination by the director of the amount of an adjustment to be made in an applicant's water bill in accordance with the provisions of this section shall be final.

Sec. 47-74.1. Leak balance remaining adjustment.

- (a) Any single-family residential customer with a leak balance remaining (LBR) may request a leak balance remaining adjustment. As used in this section the term leak balance remaining means a water bill amount due that is derived from excess usage that remains after the director's approval of a billing adjustment under section 47-74 of this Code. The LBR includes only water and sewer service charges on the customer's account and may include usage billed in consecutive months prior to or after the months adjusted under section 47-74 of this Code.
- (b) To qualify for an LBR adjustment, the LBR must be greater than ~~\$2,000.00~~ 1,000.00. For elderly customers who meet the eligibility criteria for elderly residents in section 36-62 (1) of this Code, the LBR must be greater than ~~\$250~~ 100.00. Customers requesting an LBR adjustment shall submit an LBR adjustment application on a form prescribed by the director. The application form shall contain a statement requiring the applicant to affirm its understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and a statement that the application contains no false statements.
- (c) A customer requesting an LBR must demonstrate that he:
 - (1) Is the named account holder of record at the time that the excusable defect occurred;
 - (2) Qualified for and received an adjustment under section 47-74 of this Code;
 - (3) Had an excusable defect in the line that was not a city-caused leak;
 - (4) Worked with the customer account services' (CAS) collections team and exhausted the CAS recommended assistance options prior to submitting the LBR adjustment application;
 - (5) Submitted the LBR adjustment application within 30 days after the date on which an approved adjustment for the defect in the customer's line appeared on the bill; and
 - (6) Had not received an LBR adjustment on the account during the past 12-month period.
- (d) Upon receipt of a completed LBR adjustment application, the director shall review the application and if the director approves the application as being eligible for an adjustment under this section, the customer's bill shall be adjusted as follows:
 - (1) For customers with a leak balance remaining greater than ~~\$2,000.00~~ 1,000.00, the leak balance remaining shall be adjusted to ~~\$2,000.00~~ 1,000.00.
 - (2) Notwithstanding item (1) of this subsection, for eligible elderly customers with a leak balance remaining greater than ~~\$250.00~~ 100.00, the leak balance remaining shall be adjusted to ~~\$250.00~~ 100.00.
- (e) The LBR billing adjustment will be applied to the customer's account upon full payment of the amount owed after the LBR adjustment.

- (f) The director shall offer a customer who receives a LBR adjustment a payment agreement to pay any remaining balance on the account in monthly installments.
- (g) In the event of extraordinary circumstances and when reasonable effort was made by customer to remedy the defect in the water line in a timely manner, the director may consider additional qualifying conditions as prescribed in departmental procedures.
- (h) Within ten days of the customer notification of the LBR decision, the customer may request an internal review by the department; however, the decision of the director or the director's designee following the internal review is final. There are no rights for further administrative review, an administrative hearing, or any further proceedings or appeals regarding the LBR Adjustment Application and/or the LBR Adjustment under this section.
- (i) Customers may receive no more than one LBR adjustment in any 12-month period for any one account.

Sec. 47-75. Adjustment of unusually large bill.

- (a) Any single-family residential customer who receives a water bill for any given month that is greater than 200 percent of the average usage of the customer, the customer may request an adjustment of the bill in the manner provided in this section. Provided, that the customer must make an application within six months of receipt of such bill and only one such monthly bill out of any 12 consecutive monthly bills may be adjusted under this section. If the applicant has not been a customer for a sufficient length of time for the department to determine average usage, the department shall delay the adjustment until it can calculate the average usage. In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill and briefly state:
- (1) The reasons for the request for the adjustment;
 - (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
 - (3) That there have been no plumbing repairs or necessity therefor during the month for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and
 - (4) Such other information as the utility official may require.
- (b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official concludes that, in all reasonable probability, the customer consumed and was charged for more water during the month in question but is unable to actually account for such unusual quantity, the utility official shall recompute the bill using as the gross quantity ~~450~~125 percent of the average monthly gross quantity applicable to the customer. Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.
- (c) If the customer has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the customer's average bill, the department shall credit the customer's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer

requests a refund, or the customer can show extreme economic hardship, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If ~~an~~a customer discontinues water service before subsequent charges have depleted the credit, the department shall refund to the customer at the time of discontinuance the remaining credit balance minus any overdue debt the customer owes the city.

Sec 47-75.1. Exceptional circumstances adjustment.

- (a) Under exceptional circumstances as identified in this section, any billed amount in excess of ~~five~~two times the average monthly bill of a commercial, residential or not-for-profit account may be reduced by up to ~~\$4,000.00~~10,000.00 for one occurrence that does not exceed a ~~two-month~~ timeframe of two billing cycles. To receive this credit, the following criteria will be used:
- (1) The usage must exceed the customer's average monthly usage by at least ~~five~~two times; and
 - (2) Based on an investigation conducted by the department as described in section 47-75 of this Code, the evidence clearly establishes that such increased usage was not the result of the customer's failure to take action reasonably calculated to address the problem.
- (b) A customer may receive no more than one exceptional circumstances adjustment in a 24 month period.
- (c) The adjustment may not be combined with any other adjustment granted pursuant to this chapter for a single incident.
- (d) In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under Chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill(s) and briefly state:
- (1) The reasons for the request for the adjustment;
 - (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
 - (3) Information on any plumbing repairs or necessity therefor during the month(s) for which an adjustment is sought; and
 - (4) Such other information as the utility official may require.
- (e) A customer may request a hearing regarding this section following the process set forth in section 47-70.1 of this Code.
- (f) Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.

Sec. 47-61. Charges for treated water service generally.

- (a) *Generally.* Except as otherwise specifically provided for in this chapter and as further defined below, the charge for treated water service furnished by the city in any given month to any given customer shall include all water that passes through the customer's meter and shall be the monthly water charge applicable to such customer, plus any applicable miscellaneous charges accruing in accordance with this chapter or the appendices of this Code, provided, however, single-family residential customers may be charged the conservation rate as defined in subsection (b) of this section. Single-family residential customers using more than 3,000 gallons in a month will be charged at the incremental rate for all their water usage and are not eligible for the conservation rate in that month. Additionally, compliance with all applicable laws is a condition of continued utility service.
- (b) *Definitions.* As used in articles I and II of this chapter, the following terms shall have the meanings set out below, unless the context clearly indicates that another meaning is intended:

Additional quantity means the customer's monthly water usage over a gross quantity with a defined charge. The charge for additional quantity shall be computed for each month using the applicable incremental rate.

Applicable laws means, but is not limited to limitations, restrictions, conditions, standards, prohibitions and requirements established in this Code, and any law, statute, ordinance, rule, regulation, order or determination of any government authority with jurisdiction, such as, for example, the Texas Commission on Environmental Quality. Applicable laws include, without limitation, all applicable provisions of the Texas Water Code, zoning ordinances, building codes, flood rules and regulations, health laws and regulations and environmental laws.

Average usage means the customer's average monthly water usage as determined by the utility official on the basis of historical usage and other relevant factors.

Basic service means fire protection, metering, administrative, billing, and other services related to water service that the customer receives and pays for regardless of the customer's consumption or lack of consumption of treated water furnished by the city. Fire protection included in basic service does not include metered or unmetered fire lines.

City-caused leak means a defect in the customer's line caused by a city employee or city contractor during and within the scope of their authorized work on city projects which led directly to a loss of water that registered as consumption on the customer's water meter.

Commercial fire line service means service to a water supply system that has been installed for the sole purpose of fire protection and does not register any usage except as needed for fire protection or standard maintenance and testing as required by NFPA 25 Standards.

Conservation rate means the reduced volume rate charged to single-family residential users for water usage of 3,000 gallons or less in a month.

Contract treated water customer means a customer who has contracted with the city to receive treated water under subsection 47-61(f) below.

Customer means any person who has applied for or contracted with the city for water service, the owner of a property with a meter connected for water service, or any person who resides at the address where the city provides the water service at the time the monthly charges are incurred. A customer may have more than one meter and more than one property with water service.

Defined charge means the monthly charge for basic service.

Disabled veteran means a veteran of the armed forces entitled to receive compensation for service connected disability under the laws of the United States.

Emergency means a mechanical, electrical, or systemic failure of the waterworks system of an EBS customer, such that the failure significantly affects the EBS customer's ability to supply water to its own water customers. An emergency shall not mean a water shortage or a greater than expected water use by the EBS customer's own water customers, nor shall it mean a circumstance or condition caused by ordinary wear and tear of the EBS customer's facilities.

Emergency backup service customer or *EBS customer* means any customer who (i) would otherwise be a resale customer or contract treated water customer, (ii) has submitted an application for emergency backup service approved by the utility official, (iii) has installed and conveyed an EBS system to the city in accordance with this Code; and (iv) has not had the EBS terminated by the utility official.

Excess usage means and refers to the difference between the total water consumption shown on the customer's bill and the customer's average usage.

Excusable defect means a rupture or leakage of the customer's water lines caused by city personnel, a city contractor, freezing weather, settlement, corrosion, or accidental occurrence not caused by customer negligence or disregard of waterline or fixture maintenance. The term does not apply to any defective or out-of-repair plumbing fixtures that are exchangeable devices or components attached to the plumbing system to deliver and drain water.

Exempt senior customer means any customer who (i) is at least 60 years old; (ii) is a residential customer occupying the entire premises for which exempt senior customer status is requested; (iii) has filed with the department a request for exempt senior customer status; and (iv) provides all necessary information as requested by the utility official.

Gross quantity means the total quantity of water actually delivered to a customer's meter during a month.

Incremental rate means the rate charged to a customer for monthly water usage that is not included in a defined charge.

Industrial customer or *commercial customer* means any non-residential customer with retail water service that the utility official determines is not a transient customer, EBS customer, or an outdoor customer.

Month means the billing period for each customer and consists of approximately 30 days. A billing period begins on the date that a customer's measuring equipment is read (or the date as of which the customer's gross quantity is estimated) and ends when the next such reading (or estimation) occurs. There shall be 12 such readings (or estimations) per customer per calendar year, and the date of the most recent reading (or estimation) is usually shown on each water bill.

Monthly water charge means charges to a customer in a given month for water services that include defined charges and charges for additional quantities.

Monthly water usage means services a customer receives including the total gross quantity in increments of 1,000 gallons of treated water attributable to a customer's meter for a given month. Monthly water usage includes basic service and all gross quantity not previously included in the customer's monthly water charge.

Multifamily residential customer means a residential customer whose meter is connected to, or serves exclusively, a residential establishment with more than one unit.

Non-residential customer means a retail customer who (i) has a meter that does not serve a residential establishment and (ii) is not a contract water customer.

Outdoor customer means a customer whose meter is connected to and serves only one of the following:

- (1) A device or system for irrigation or distributing water to any area not enclosed within a permanent roofed structure; or
- (2) One or more spigots, hydrants or outlets for water wholly located outside of a permanent, roofed structure.

No connection or water flow to a city or private sewer is permitted for outdoor customers. If a connection or flow into the sewer is found, the customer's account shall be changed to include water and sewer charges and the department shall bill the customer for all wastewater usage, including any arrearage.

Per-unit gross quantity means the gross quantity for a multifamily residential customer divided by the number of units in the residential establishment of that customer. In the event a person owning a multifamily residential establishment served by more than one meter has established an umbrella account, the gross quantity shall be the total amount of water as measured by all meters serving the establishment during the billing period. Otherwise, a person owning a multifamily residential establishment served by more than one meter shall be considered a separate customer for each meter for the purpose of determining the per-unit gross quantity. If a multifamily residential customer that has not established an umbrella account maintains a water distribution system in which a unit is served by more than one meter, such unit shall be prorated between or among such

meters for the purpose of determining the per-unit gross quantity in accordance with the following formula:

$$\frac{\text{Per unit gross quantity per meter}}{U} = \frac{W}{U}$$

Where:

W = is the total water delivered through such meter during a bill period.

U = is the sum of the units served by the meter, except where a unit is served by x meters such unit shall be counted only as 1/x unit.

In no event shall the sum of units used for the calculation of the "per-unit gross quantities" exceed the actual number of units located at the multifamily residential establishment.

Person means any legally competent individual, business entity, governmental entity, or any combination of individuals or entities legally bound together.

Person with disability has the meaning ascribed in section 36-62 of this Code.

Resale customer means any customer (other than a contract treated water customer, an EBS customer or a transient meter customer) owning or operating for compensation equipment or facilities for transmitting, storing, distributing, selling or furnishing potable water to the public or for resale to the public for any use; provided that the term shall not include any customer that furnishes water only to itself, its employees or tenants as an incident of such employee service or tenants when such water is not resold to or used by others.

Residential customer means any customer whose meter exclusively serves a residential establishment. Residential customers do not include commercial customers, contract treated water customers, EBS customers, industrial customers, outdoor customers, resale customers, or transient customers.

Residential establishment means any structure or group of structures within which at least 75 percent of the floor space (excluding corridors) is occupied or intended for occupancy as living quarters. Residential establishment does not include hotels, motels, inns, lodging houses or any similar establishment in which lodging is furnished for consideration and in which permanent residents occupy less than 80 percent of the accommodations. Residential establishment does not include group quarters. Group quarters are living arrangements for other than ordinary household life, such as dormitories, military barracks, hospitals, assisted care facilities and prisons.

Single-family residential customer means a residential customer whose meter is connected to, or serves exclusively, a residential establishment with one unit.

TCEQ public health service fee means the fee per connection for public water systems pursuant to 30 Texas Administrative Code (TAC) § 290.51(a)(3)—(6). The fee is included in each customer's bill for treated water connections and pays for services provided by the Texas Commission on Environmental Quality, including: scheduling of analysis of drinking water for chemical content; collection of samples

of drinking water for chemical analyses; review of system data for evaluation of sampling waivers; inspection of public water systems; review of plans for new systems and major improvements to existing systems; and, provision of technical assistance as needed.

Transient meter customer means a non-residential customer that has obtained a transient meter from the department for purposes approved by and in accordance with procedures adopted by the utility official.

Umbrella account means a customer account established under section 47-71 of this Code.

Unit means a house, an apartment, a town house, a manufactured home, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with any other persons in the structure and which quarters have either:

- (1) Direct access from the outside of the structure or through a common hall: or
- (2) Complete kitchen facilities for the exclusive use of the occupants.

The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or nonrelated persons who share living arrangements.

(c) *Residential water service.* Each residential customer shall incur monthly charges for water for each meter serving the customer's premises. Multifamily residential customer meters under umbrella accounts may be exempt from certain basic service charges

(1) *Single-family residential customers.* Each single-family residential customer's monthly water charge shall be calculated using the total of the applicable defined charge, the charge for additional quantities, and the TCEQ public health service fee set forth below:

- a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
- b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable incremental rates set forth for this provision in the city fee schedule.
- c. *TCEQ public health service fee.*

(2) *Multifamily residential customers.* Each multifamily residential customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities as set forth below.

- a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the incremental rate set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee.*
- (d) *Non-residential water service.* Non-residential customers shall incur monthly water charges for each meter based upon the customer's meter size, measured by diameter in inches, the charge for additional quantities, plus the TCEQ public health service fee, if applicable, in accordance with the applicable rates set out in the city fee schedule.
- (1) *Resale customers.* Each resale customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below.
 - a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
 - (2) *Outdoor customers.* Each outdoor customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
 - a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
 - (3) *Commercial and industrial customers.* With the exception of a customer with a metered fire connection, which shall be billed as provided in section 47-64(a) of this Code, each commercial customer's monthly water charge and each industrial customer's monthly water charge shall be the total of the defined

charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:

- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (4) *Emergency backup service customer.* Each EBS customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (5) *Reserved.*
- (6) *Transient meter customers.* Each transient meter customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (e) *Emergency backup service (EBS) customer.*

- (1) *Eligibility and applications.* Any person desiring to become an EBS customer must apply to the director. Each EBS application must:
 - a. Be made in a form prescribed by the director; and
 - b. Include engineering drawings and detailed specifications of the applicant's proposed installation of EBS equipment.
- (2) *Action upon applications.* The director shall examine each EBS application. An application shall be approved if the director determines that:
 - a. The applicant can qualify as an EBS customer;
 - b. The requested EBS service is practical and sound from an engineering point of view;
 - c. The proposed installation of EBS equipment meets city standards; and
 - d. The application otherwise complies with this Code.

The director shall allow an applicant to modify its application or its proposed installation of EBS equipment so as to meet any requirements for approval.

- (3) *EBS equipment.*
 - a. All installations of EBS equipment shall include measuring equipment, valves, backflow prevention devices, a locking mechanism, a proper vault and such other items as are necessary in the judgment of the director. All such installations shall conform to city standards as to location, materials and workmanship.
 - b. When the director has approved an application, the applicant shall furnish, deliver and install the EBS equipment at its own expense in strict compliance with this Code and the plans and specifications approved by the director. The applicant shall provide reasonable opportunities for the director to inspect the work as it progresses and shall so notify the director at appropriate times. When the completed installation has been inspected and approved by the director, the applicant shall:
 1. Convey to the city the complete installation (excluding back flow prevention devices) free and clear of liens and encumbrances by written documents approved by the director.
 2. Deliver all keys to the locking mechanism to the director. To the extent an existing, city-owned installation is to be used for the applicant's EBS installation, the foregoing provisions may be modified by the director.
- (4) *Monthly billing and charges.* Each EBS customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities as set forth below:
 - a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.

- b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *Rates and charges.* Rates and charges for each EBS customer begin to accrue on the day its installation is conveyed to the city.
- (5) *Opening and closing connections.* In the event of an emergency, the EBS customer may notify the director of the emergency and request that the EBS connection be unlocked and opened. If the director determines that an emergency exists, the city shall unlock and open the EBS connection. Under no circumstances shall the EBS customer unlock or open the connection or otherwise operate or tamper with the installation. When the emergency has ceased or is deemed to have ceased, the city shall close and lock the EBS connection. The emergency shall be deemed to have ceased when the EBS customer so notifies the director or when 30 days have elapsed after the date of EBS customer notified the director of the emergency, whichever first occurs. If the director determines that an extension of time will not cause undue hardship to the other customers of the city, the director may extend the time the EBS connection is open upon written request of the EBS customer and a showing by that customer that an emergency still exists and that all practicable steps are being taken to correct the circumstances causing the emergency. However, if at any time the director determines that an emergency has actually ceased and consults with the EBS customer, the director may close and lock the connection.
- (6) *Termination of service.* Service to an EBS customer shall be terminated, after reasonable notice to the customer and an opportunity to be heard, if the customer fails to pay any rates or charges within the time allowed or if the customer fails to comply with the other terms of service applicable to such customer. Upon such termination, the connection shall be permanently closed, locked and disconnected, and the rates and charges shall cease accruing.
- (f) *Contract treated water service.*
- (1) *Eligibility and applications.* Applications for contract treated water service shall be made on forms prescribed by the director. Each application shall include the nonrefundable processing fee stated for this provision in the city fee schedule. Any customer or potential customer is eligible for contract treated water service under this subsection if:
- a. The customer is a municipality or conservation and reclamation district organized under article XVI, section 59 of the Texas Constitution that proposes to resell water purchased from the city;
 - b. The customer would otherwise be a commercial customer and has minimum water consumption equal to at least 150,000,000 gallons per month;
 - c. The customer is a private utility company holding a certificate of convenience and necessity from the state that (i) resells water to single family or multi-

- family dwellings only and (ii) maintains a water distribution system in public rights-of-way or public easements; or
- d. The customer would otherwise be a commercial customer and is in compliance with a conservation plan pursuant to chapters 288 and 295 of title 30 Texas Administrative Code to reduce its minimum water consumption from 150,000,000 or more gallons per month while continuing to provide the same or higher levels of production or services.
- (2) *Contract requirements.* Upon receipt of a completed application, the department shall determine water availability and, if sufficient water is available for the customer, shall secure a written agreement from the applicant, which shall include:
- a. The term of the agreement;
 - b. The minimum monthly quantity of water to be taken by the customer. This minimum for customers other than those described under items (1)a, (1)c and (1)d of this subsection shall be 150,000,000 gallons per month. Customers defined under items (1)a, (1)c and (1)d of this subsection shall be permitted to change the minimum monthly quantity only in accordance with the terms of their contracts;
 - c. The designation of the point or points of delivery;
 - d. Rates as described in subsection (f)(3) of this section; and
 - e. Any special requirements regarding metering or facilities desired by the parties.

No agreement for contract treated water service shall be valid unless approved by the city council.

- (3) *Rates and charges.* Treated water supply contract customers shall incur monthly water charges for each meter including a defined charge based on the customer's meter size, measured by diameter in inches, and the volume charge for metered water usage. The contract rate for all water supplied under an untreated water supply contract is as stated in the city fee schedule for the volume of water, including minimum monthly amount and amounts in excess of the minimum monthly amount, as specified in the contract for each customer type as set out below, for treated water supply with airgap or treated water supply without airgap.

For contract treated water customers, the monthly charge shall equal:

$P \times R$

plus

$(P-M) \times F$

Where:

- P = The total water delivery to such customer during the month expressed in units of 1,000 gallons, except if the minimum monthly amount of water specified in the customer's contract is greater than P, P shall equal M;
- M = The minimum monthly amount of water specified in the customer's contract expressed in units of 1,000 gallons; and
- R = The applicable rate stated for this provision in the city fee schedule contract treated water service with or without airgap. An airgap shall be required of every customer unless the director determines that this requirement be waived because of prior conditions, excessive pressure, or health and safety concerns.
- F = The contract treated water service monthly charge factor stated for this provision in the city fee schedule.

A contract treated water service charge premium per thousand gallons shall apply to amounts taken in excess of the minimum monthly amount.

In the event a billing period is longer or shorter than 30 days, a daily charge shall be determined using the formula specified above, but with P defined as average daily amount of water delivered during the billing period and M defined as the monthly minimum divided by 30. Such daily charge shall then be multiplied by the number of days in the billing period.

(g) Paperless Billing rebate. The director is authorized to offer customers a paperless billing rebate for switching from paper billing to paperless billing. The initial rebate is set at \$0.50, the director may adjust the rate once per year based on changes in costs.

Sec. 47-63. Minimum monthly charges generally.

- (a) Wherever meters are connected to the city's water distribution system, the minimum monthly charges called for in section 47-61 of this Code shall apply (except as otherwise specifically provided in this chapter), regardless of whether or not any water is actually used or consumed and regardless of whether or not the premises to which connection is made have water service from another source. ~~There~~ Where more than one meter is used to serve the premises, the total charge for water service shall be computed as if each were connected to separate premises, except a multifamily residential customer that has established an umbrella account shall pay the minimum monthly charge based on the size of its largest meter only.
- (b) The department shall create a meter lock fee and place such a fee on the city fee schedule.
- (c) If a meter lock can be placed on the meter, a customer may request that the department place a lock on the meter. Once the department determines that a lock can be placed, the department will place a lock on the meter after the customer pays a one-time fee. Once the meter is locked, then the defined charge described in section 47-61 shall be suspended from their account until service is restored.
- (d) During the suspension of service through this section, if the department determines that the meter lock has been tampered with but the meter did not register water usage, then the one-time replacement fee will be re-assessed and there will be no other penalty.
- (e) During the suspension of service through this section, if the department determines that the meter lock has been tampered with and the meter registered water usage, a fine as described under Section 47.7 may be assessed and all defined charges will be reapplied and reassessed going back to the placement of the meter lock. All defined charges shall be assessed and the owner will be ineligible for a new meter lock.
- (f) When service is reactivated by the customer, if there has been no change to the service unit calculation of the property, then the customer can petition the director to have any impact fees associated with reactivating the account waived. This petition may be rejected if the director finds there has been a change in the service unit calculation to the property.
- (g) The minimum charges called for in section 47-61 of this Code shall be in addition to and not credited against the charges made for installation of the meter and making connections as provided elsewhere in this Code.

Sec. 47-65. Billing errors—In general.

Subject to the provisions of this article, the department shall charge for all water that passes through the water meter.

If the department commits a billing error, it shall correct the customer's bill as soon as it discovers the incorrect billing. If the incorrect billing is an overcharge that is more than six times the customer's average bill, the department shall refund the overcharge to the customer at the request of the customer. Provided, however, if the customer can show extreme economic hardship to the utility official, the department shall refund the overcharge to the customer notwithstanding the amount of the overcharge. The utility official shall determine whether extreme economic hardship exists. In cases where the overcharge is not refunded, the department shall credit the customer's account the amount of the overcharge to be applied to the charges thereafter accruing.

Subject to the provisions of this article, for non-residential customers, contract treated water customers, or contract untreated water customers, the department may not correct any billing error that occurred more than two years prior to the date the department learns of the error. For residential customers, if the correction results in a credit for the customer, the department shall correct the error that occurred up to two years prior to the date the department learns of the error. If the correction results in the residential customer owing the department money, the department shall correct the error that occurred up to three months prior to the date the department learns of the error. However, in the case of fraud or theft of city water or sewer service, the city reserves the right to recover the amount owed by the customer back to the date of the fraud or theft.

Sec. 47-74. Adjustment of bill as result of defect in customer's line.

- (a) Any residential, commercial, multifamily or outdoor customer of the city may request an adjustment of any water bill showing excess usage due to a loss of water through an excusable defect in the customer's water line for a period not to exceed three consecutive months. To apply for the adjustment the customer must file a sworn written application or an application that conforms to minimum state law requirements for unsworn declarations with the director within six months of the repair of the excusable defect ~~Customers may apply for no more than two such adjustments in any 12-month period for any one account~~ There are no limits ~~limit~~ to the number of times customers may apply for adjustments in any 12-month period ~~for any one account related to a leak resulting from an excusable defect in a customer's line that the department has documented and verified as a city-caused leak~~ receive adjustments under this section. The director shall promulgate all necessary adjustment application forms. The adjustment application shall contain the following information and any other information as the director may require:
- (1) The name of the applicant, the address or description of the property or premises furnished water, the bills which are sought to be adjusted, the date of the bill and the period of water usage covered thereby.
 - (2) A statement of the date on which the excusable defect in the applicant's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.
 - (3) A written acknowledgment that the applicant makes the statements shown on the application and swears to their veracity for the purpose of inducing the city to grant a reduction in the amount of the water bill for which an adjustment is requested.
 - (4) An indication of any additional water consuming devices placed in use on the applicant's premises during the period covered by such bill.
 - (5) Documentation shall be submitted detailing the exact nature and date of repairs to the applicant's water line.
 - (6) A statement that the applicant is personally familiar with all the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.
 - (7) A statement executed by the applicant setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and the applicant's certification that the application contains no false statements.
- (b) Upon receipt of a properly completed application, the director shall review the application for completeness and to determine if the applicant has been a customer for a sufficient length of time to make an adjustment determination. If the applicant has not been a customer for a sufficient length of time needed to determine normal consumption as determined by the director, then the department shall defer the

adjustment for a sufficient period of time needed to calculate the customer's average water usage. If the applicant qualifies for an adjustment, by meeting the requirements set out in subsection 47-74(a) of this Code, then the applicant's bill shall be adjusted as follows:

- (1) For an excusable defect in a customer's line that is not a city-caused leak, if the customer repairs the leak within 30 days of receipt of a bill that first reflects the leak, the customer shall be billed only at their established rate for customers in the applicant's rate classification applied to the average usage and this is the only amount that will be charged. There will be no additional charge for excess usage.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (2) For an excusable defect in a customer's line that is not a city-caused leak that is repaired between 30 and 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-fourth of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (3) For an excusable defect in a customer's line that is not a city-caused leak that is repaired after 60 days of receipt of a bill that first reflects the leak, a rate of charge equal to one-half of the established rate of such water usage by a customer in the applicant's classification shall be applied to the excess usage to determine the amount the applicant must pay for excess usage.

The established rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the adjusted bill.

Provided, however, for multifamily residential customers that have established umbrella accounts, average usage and excess usage under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

- (4) For leak adjustments calculated under subsection (b)(2) or subsection (b)(3) there will not be any associated sanitary charges as calculated under Section 47, Article III related to the one-fourth or one-half excess usage charge.
 - (5) For an excusable defect in a customer's line that is documented and verified by the city as a city-caused leak, a rate of charge equal to the established rate of such water usage by a customer in the applicant's classification shall be applied to the applicant's average water usage derived in the leak calculation, which determines the customer's normal usage and excludes charges for the customer's excess usage to determine the amount the applicant must pay for water usage during the period specified in the customer's application.
- (c) If the applicant has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the applicant's average bill, the department shall credit the applicant's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the applicant can show extreme economic hardship to the director, the department shall refund the amount of the adjustment as specified in section 47-74.1 of this Code. The director shall determine whether extreme economic hardship exists.
- If an applicant discontinues water service before subsequent charges have depleted the credit, the department shall refund to the applicant at the time of discontinuance the remaining credit balance minus any overdue debt the applicant owes the city.
- (d) Except as provided by section 47-75.2 of this Code, a determination by the director of the amount of an adjustment to be made in an applicant's water bill in accordance with the provisions of this section shall be final.

Sec. 47-74.1. Leak balance remaining adjustment.

- (a) Any single-family residential customer with a leak balance remaining (LBR) may request a leak balance remaining adjustment. As used in this section the term leak balance remaining means a water bill amount due that is derived from excess usage that remains after the director's approval of a billing adjustment under section 47-74 of this Code. The LBR includes only water and sewer service charges on the customer's account and may include usage billed in consecutive months prior to or after the months adjusted under section 47-74 of this Code.
- (b) To qualify for an LBR adjustment, the LBR must be greater than ~~\$2,000.00~~ 1,000.00. For elderly customers who meet the eligibility criteria for elderly residents in section 36-62 (1) of this Code, the LBR must be greater than ~~\$250~~ 100.00. Customers requesting an LBR adjustment shall submit an LBR adjustment application on a form prescribed by the director. The application form shall contain a statement requiring the applicant to affirm its understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and a statement that the application contains no false statements.
- (c) A customer requesting an LBR must demonstrate that he:
 - (1) Is the named account holder of record at the time that the excusable defect occurred;
 - (2) Qualified for and received an adjustment under section 47-74 of this Code;
 - (3) Had an excusable defect in the line that was not a city-caused leak;
 - (4) Worked with the customer account services' (CAS) collections team and exhausted the CAS recommended assistance options prior to submitting the LBR adjustment application;
 - (5) Submitted the LBR adjustment application within 30 days after the date on which an approved adjustment for the defect in the customer's line appeared on the bill; and
 - (6) Had not received an LBR adjustment on the account during the past 12-month period.
- (d) Upon receipt of a completed LBR adjustment application, the director shall review the application and if the director approves the application as being eligible for an adjustment under this section, the customer's bill shall be adjusted as follows:
 - (1) For customers with a leak balance remaining greater than ~~\$2,000.00~~ 1,000.00, the leak balance remaining shall be adjusted to ~~\$2,000.00~~ 1,000.00.
 - (2) Notwithstanding item (1) of this subsection, for eligible elderly customers with a leak balance remaining greater than ~~\$250.00~~ 100.00, the leak balance remaining shall be adjusted to ~~\$250.00~~ 100.00.
- (e) The LBR billing adjustment will be applied to the customer's account upon full payment of the amount owed after the LBR adjustment.

- (f) The director shall offer a customer who receives a LBR adjustment a payment agreement to pay any remaining balance on the account in monthly installments.
- (g) In the event of extraordinary circumstances and when reasonable effort was made by customer to remedy the defect in the water line in a timely manner, the director may consider additional qualifying conditions as prescribed in departmental procedures.
- (h) Within ten days of the customer notification of the LBR decision, the customer may request an internal review by the department; however, the decision of the director or the director's designee following the internal review is final. There are no rights for further administrative review, an administrative hearing, or any further proceedings or appeals regarding the LBR Adjustment Application and/or the LBR Adjustment under this section.
- (i) Customers may receive no more than one LBR adjustment in any 12-month period for any one account.

Sec. 47-75. Adjustment of unusually large bill.

- (a) Any single-family residential customer who receives a water bill for any given month that is greater than 200 percent of the average usage of the customer, the customer may request an adjustment of the bill in the manner provided in this section. Provided, that the customer must make an application within six months of receipt of such bill and only one such monthly bill out of any 12 consecutive monthly bills may be adjusted under this section. If the applicant has not been a customer for a sufficient length of time for the department to determine average usage, the department shall delay the adjustment until it can calculate the average usage. In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill and briefly state:
- (1) The reasons for the request for the adjustment;
 - (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
 - (3) That there have been no plumbing repairs or necessity therefor during the month for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and
 - (4) Such other information as the utility official may require.
- (b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official concludes that, in all reasonable probability, the customer consumed and was charged for more water during the month in question but is unable to actually account for such unusual quantity, the utility official shall recompute the bill using as the gross quantity ~~150~~125 percent of the average monthly gross quantity applicable to the customer. Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.
- (c) If the customer has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the customer's average bill, the department shall credit the customer's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer

requests a refund, or the customer can show extreme economic hardship, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If ~~an~~ a customer discontinues water service before subsequent charges have depleted the credit, the department shall refund to the customer at the time of discontinuance the remaining credit balance minus any overdue debt the customer owes the city.

Sec 47-75.1. Exceptional circumstances adjustment.

- (a) Under exceptional circumstances as identified in this section, any billed amount in excess of ~~five~~two times the average monthly bill of a commercial, residential or not-for-profit account may be reduced by up to ~~\$4,000.00~~10,000.00 for one occurrence that does not exceed a ~~two-month~~ timeframe of two billing cycles. To receive this credit, the following criteria will be used:
 - (1) The usage must exceed the customer's average monthly usage by at least ~~five~~two times; and
 - (2) Based on an investigation conducted by the department as described in section 47-75 of this Code, the evidence clearly establishes that such increased usage was not the result of the customer's failure to take action reasonably calculated to address the problem.
- (b) A customer may receive no more than one exceptional circumstances adjustment in a 24 month period.
- (c) The adjustment may not be combined with any other adjustment granted pursuant to this chapter for a single incident.
- (d) In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under Chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill(s) and briefly state:
 - (1) The reasons for the request for the adjustment;
 - (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
 - (3) Information on any plumbing repairs or necessity therefor during the month(s) for which an adjustment is sought; and
 - (4) Such other information as the utility official may require.
- (e) A customer may request a hearing regarding this section following the process set forth in section 47-70.1 of this Code.
- (f) Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.

Sec. 47-61. Charges for treated water service generally.

- (a) *Generally.* Except as otherwise specifically provided for in this chapter and as further defined below, the charge for treated water service furnished by the city in any given month to any given customer shall include all water that passes through the customer's meter and shall be the monthly water charge applicable to such customer, plus any applicable miscellaneous charges accruing in accordance with this chapter or the appendices of this Code, provided, however, single-family residential customers may be charged the conservation rate as defined in subsection (b) of this section. Single-family residential customers using more than 3,000 gallons in a month will be charged at the incremental rate for all their water usage and are not eligible for the conservation rate in that month. Additionally, compliance with all applicable laws is a condition of continued utility service.
- (b) *Definitions.* As used in articles I and II of this chapter, the following terms shall have the meanings set out below, unless the context clearly indicates that another meaning is intended:

Additional quantity means the customer's monthly water usage over a gross quantity with a defined charge. The charge for additional quantity shall be computed for each month using the applicable incremental rate.

Applicable laws means, but is not limited to limitations, restrictions, conditions, standards, prohibitions and requirements established in this Code, and any law, statute, ordinance, rule, regulation, order or determination of any government authority with jurisdiction, such as, for example, the Texas Commission on Environmental Quality. Applicable laws include, without limitation, all applicable provisions of the Texas Water Code, zoning ordinances, building codes, flood rules and regulations, health laws and regulations and environmental laws.

Average usage means the customer's average monthly water usage as determined by the utility official on the basis of historical usage and other relevant factors.

Basic service means fire protection, metering, administrative, billing, and other services related to water service that the customer receives and pays for regardless of the customer's consumption or lack of consumption of treated water furnished by the city. Fire protection included in basic service does not include metered or unmetered fire lines.

City-caused leak means a defect in the customer's line caused by a city employee or city contractor during and within the scope of their authorized work on city projects which led directly to a loss of water that registered as consumption on the customer's water meter.

Commercial fire line service means service to a water supply system that has been installed for the sole purpose of fire protection and does not register any usage except as needed for fire protection or standard maintenance and testing as required by NFPA 25 Standards.

Conservation rate means the reduced volume rate charged to single-family residential users for water usage of 3,000 gallons or less in a month.

Contract treated water customer means a customer who has contracted with the city to receive treated water under subsection 47-61(f) below.

Customer means any person who has applied for or contracted with the city for water service, the owner of a property with a meter connected for water service, or any person who resides at the address where the city provides the water service at the time the monthly charges are incurred. A customer may have more than one meter and more than one property with water service.

Defined charge means the monthly charge for basic service.

Disabled veteran means a veteran of the armed forces entitled to receive compensation for service connected disability under the laws of the United States.

Emergency means a mechanical, electrical, or systemic failure of the waterworks system of an EBS customer, such that the failure significantly affects the EBS customer's ability to supply water to its own water customers. An emergency shall not mean a water shortage or a greater than expected water use by the EBS customer's own water customers, nor shall it mean a circumstance or condition caused by ordinary wear and tear of the EBS customer's facilities.

Emergency backup service customer or *EBS customer* means any customer who (i) would otherwise be a resale customer or contract treated water customer, (ii) has submitted an application for emergency backup service approved by the utility official, (iii) has installed and conveyed an EBS system to the city in accordance with this Code; and (iv) has not had the EBS terminated by the utility official.

Excess usage means and refers to the difference between the total water consumption shown on the customer's bill and the customer's average usage.

Excusable defect means a rupture or leakage of the customer's water lines caused by city personnel, a city contractor, freezing weather, settlement, corrosion, or accidental occurrence not caused by customer negligence or disregard of waterline or fixture maintenance. The term does not apply to any defective or out-of-repair plumbing fixtures that are exchangeable devices or components attached to the plumbing system to deliver and drain water.

Exempt senior customer means any customer who (i) is at least 60 years old; (ii) is a residential customer occupying the entire premises for which exempt senior customer status is requested; (iii) has filed with the department a request for exempt senior customer status; and (iv) provides all necessary information as requested by the utility official.

Gross quantity means the total quantity of water actually delivered to a customer's meter during a month.

Incremental rate means the rate charged to a customer for monthly water usage that is not included in a defined charge.

Industrial customer or commercial customer means any non-residential customer with retail water service that the utility official determines is not a transient customer, EBS customer, or an outdoor customer.

Month means the billing period for each customer and consists of approximately 30 days. A billing period begins on the date that a customer's measuring equipment is read (or the date as of which the customer's gross quantity is estimated) and ends when the next such reading (or estimation) occurs. There shall be 12 such readings (or estimations) per customer per calendar year, and the date of the most recent reading (or estimation) is usually shown on each water bill.

Monthly water charge means charges to a customer in a given month for water services that include defined charges and charges for additional quantities.

Monthly water usage means services a customer receives including the total gross quantity in increments of 1,000 gallons of treated water attributable to a customer's meter for a given month. Monthly water usage includes basic service and all gross quantity not previously included in the customer's monthly water charge.

Multifamily residential customer means a residential customer whose meter is connected to, or serves exclusively, a residential establishment with more than one unit.

Non-residential customer means a retail customer who (i) has a meter that does not serve a residential establishment and (ii) is not a contract water customer.

Outdoor customer means a customer whose meter is connected to and serves only one of the following:

- (1) A device or system for irrigation or distributing water to any area not enclosed within a permanent roofed structure; or
- (2) One or more spigots, hydrants or outlets for water wholly located outside of a permanent, roofed structure.

No connection or water flow to a city or private sewer is permitted for outdoor customers. If a connection or flow into the sewer is found, the customer's account shall be changed to include water and sewer charges and the department shall bill the customer for all wastewater usage, including any arrearage.

Per-unit gross quantity means the gross quantity for a multifamily residential customer divided by the number of units in the residential establishment of that customer. In the event a person owning a multifamily residential establishment served by more than one meter has established an umbrella account, the gross quantity shall be the total amount of water as measured by all meters serving the establishment during the billing period. Otherwise, a person owning a multifamily residential establishment served by more than one meter shall be considered a separate customer for each meter for the purpose of determining the per-unit gross quantity. If a multifamily residential customer that has not established an umbrella account maintains a water distribution system in which a unit is served by more than one meter, such unit shall be prorated between or among such

meters for the purpose of determining the per-unit gross quantity in accordance with the following formula:

$$\frac{\text{Per unit gross quantity per meter}}{U} = \frac{W}{U}$$

Where:

W = is the total water delivered through such meter during a bill period.

U = is the sum of the units served by the meter, except where a unit is served by x meters such unit shall be counted only as 1/x unit.

In no event shall the sum of units used for the calculation of the "per-unit gross quantities" exceed the actual number of units located at the multifamily residential establishment.

Person means any legally competent individual, business entity, governmental entity, or any combination of individuals or entities legally bound together.

Person with disability has the meaning ascribed in section 36-62 of this Code.

Resale customer means any customer (other than a contract treated water customer, an EBS customer or a transient meter customer) owning or operating for compensation equipment or facilities for transmitting, storing, distributing, selling or furnishing potable water to the public or for resale to the public for any use; provided that the term shall not include any customer that furnishes water only to itself, its employees or tenants as an incident of such employee service or tenants when such water is not resold to or used by others.

Residential customer means any customer whose meter exclusively serves a residential establishment. Residential customers do not include commercial customers, contract treated water customers, EBS customers, industrial customers, outdoor customers, resale customers, or transient customers.

Residential establishment means any structure or group of structures within which at least 75 percent of the floor space (excluding corridors) is occupied or intended for occupancy as living quarters. Residential establishment does not include hotels, motels, inns, lodging houses or any similar establishment in which lodging is furnished for consideration and in which permanent residents occupy less than 80 percent of the accommodations. Residential establishment does not include group quarters. Group quarters are living arrangements for other than ordinary household life, such as dormitories, military barracks, hospitals, assisted care facilities and prisons.

Single-family residential customer means a residential customer whose meter is connected to, or serves exclusively, a residential establishment with one unit.

TCEQ public health service fee means the fee per connection for public water systems pursuant to 30 Texas Administrative Code (TAC) § 290.51(a)(3)—(6). The fee is included in each customer's bill for treated water connections and pays for services provided by the Texas Commission on Environmental Quality, including: scheduling of analysis of drinking water for chemical content; collection of samples

of drinking water for chemical analyses; review of system data for evaluation of sampling waivers; inspection of public water systems; review of plans for new systems and major improvements to existing systems; and, provision of technical assistance as needed.

Transient meter customer means a non-residential customer that has obtained a transient meter from the department for purposes approved by and in accordance with procedures adopted by the utility official.

Umbrella account means a customer account established under section 47-71 of this Code.

Unit means a house, an apartment, a town house, a manufactured home, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with any other persons in the structure and which quarters have either:

- (1) Direct access from the outside of the structure or through a common hall: or
- (2) Complete kitchen facilities for the exclusive use of the occupants.

The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or nonrelated persons who share living arrangements.

(c) *Residential water service.* Each residential customer shall incur monthly charges for water for each meter serving the customer's premises. Multifamily residential customer meters under umbrella accounts may be exempt from certain basic service charges

(1) *Single-family residential customers.* Each single-family residential customer's monthly water charge shall be calculated using the total of the applicable defined charge, the charge for additional quantities, and the TCEQ public health service fee set forth below:

- a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
- b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable incremental rates set forth for this provision in the city fee schedule.
- c. *TCEQ public health service fee.*

(2) *Multifamily residential customers.* Each multifamily residential customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities as set forth below.

- a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the incremental rate set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee.*
- (d) *Non-residential water service.* Non-residential customers shall incur monthly water charges for each meter based upon the customer's meter size, measured by diameter in inches, the charge for additional quantities, plus the TCEQ public health service fee, if applicable, in accordance with the applicable rates set out in the city fee schedule.
- (1) *Resale customers.* Each resale customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below.
 - a. *Defined charge.* The customer's defined charge shall be calculated using the chart set forth for this provision in the city fee schedule, referencing the customer's meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
 - (2) *Outdoor customers.* Each outdoor customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
 - a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
 - (3) *Commercial and industrial customers.* With the exception of a customer with a metered fire connection, which shall be billed as provided in section 47-64(a) of this Code, each commercial customer's monthly water charge and each industrial customer's monthly water charge shall be the total of the defined

charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:

- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (4) *Emergency backup service customer.* Each EBS customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (5) *Reserved.*
- (6) *Transient meter customers.* Each transient meter customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities, and the TCEQ public health service fee, if applicable, as set forth below:
- a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.
 - b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *TCEQ public health service fee* for treated water connections only.
- (e) *Emergency backup service (EBS) customer.*

- (1) *Eligibility and applications.* Any person desiring to become an EBS customer must apply to the director. Each EBS application must:
 - a. Be made in a form prescribed by the director; and
 - b. Include engineering drawings and detailed specifications of the applicant's proposed installation of EBS equipment.
- (2) *Action upon applications.* The director shall examine each EBS application. An application shall be approved if the director determines that:
 - a. The applicant can qualify as an EBS customer;
 - b. The requested EBS service is practical and sound from an engineering point of view;
 - c. The proposed installation of EBS equipment meets city standards; and
 - d. The application otherwise complies with this Code.

The director shall allow an applicant to modify its application or its proposed installation of EBS equipment so as to meet any requirements for approval.

- (3) *EBS equipment.*
 - a. All installations of EBS equipment shall include measuring equipment, valves, backflow prevention devices, a locking mechanism, a proper vault and such other items as are necessary in the judgment of the director. All such installations shall conform to city standards as to location, materials and workmanship.
 - b. When the director has approved an application, the applicant shall furnish, deliver and install the EBS equipment at its own expense in strict compliance with this Code and the plans and specifications approved by the director. The applicant shall provide reasonable opportunities for the director to inspect the work as it progresses and shall so notify the director at appropriate times. When the completed installation has been inspected and approved by the director, the applicant shall:
 1. Convey to the city the complete installation (excluding back flow prevention devices) free and clear of liens and encumbrances by written documents approved by the director.
 2. Deliver all keys to the locking mechanism to the director. To the extent an existing, city-owned installation is to be used for the applicant's EBS installation, the foregoing provisions may be modified by the director.
- (4) *Monthly billing and charges.* Each EBS customer's monthly water charge shall be the total of the defined charge and the charge for additional quantities as set forth below:
 - a. *Defined charge.* The customer's defined charge shall be calculated using the charts set forth for this provision in the city fee schedule, referencing the customer's monthly water usage and meter size, measured by diameter in inches.

- b. *Charge for additional quantities.* The customer's charge for additional quantities shall be calculated using customer's monthly water usage multiplied by the applicable rates set forth for this provision in the city fee schedule.
 - c. *Rates and charges.* Rates and charges for each EBS customer begin to accrue on the day its installation is conveyed to the city.
- (5) *Opening and closing connections.* In the event of an emergency, the EBS customer may notify the director of the emergency and request that the EBS connection be unlocked and opened. If the director determines that an emergency exists, the city shall unlock and open the EBS connection. Under no circumstances shall the EBS customer unlock or open the connection or otherwise operate or tamper with the installation. When the emergency has ceased or is deemed to have ceased, the city shall close and lock the EBS connection. The emergency shall be deemed to have ceased when the EBS customer so notifies the director or when 30 days have elapsed after the date of EBS customer notified the director of the emergency, whichever first occurs. If the director determines that an extension of time will not cause undue hardship to the other customers of the city, the director may extend the time the EBS connection is open upon written request of the EBS customer and a showing by that customer that an emergency still exists and that all practicable steps are being taken to correct the circumstances causing the emergency. However, if at any time the director determines that an emergency has actually ceased and consults with the EBS customer, the director may close and lock the connection.
- (6) *Termination of service.* Service to an EBS customer shall be terminated, after reasonable notice to the customer and an opportunity to be heard, if the customer fails to pay any rates or charges within the time allowed or if the customer fails to comply with the other terms of service applicable to such customer. Upon such termination, the connection shall be permanently closed, locked and disconnected, and the rates and charges shall cease accruing.
- (f) *Contract treated water service.*
- (1) *Eligibility and applications.* Applications for contract treated water service shall be made on forms prescribed by the director. Each application shall include the nonrefundable processing fee stated for this provision in the city fee schedule. Any customer or potential customer is eligible for contract treated water service under this subsection if:
- a. The customer is a municipality or conservation and reclamation district organized under article XVI, section 59 of the Texas Constitution that proposes to resell water purchased from the city;
 - b. The customer would otherwise be a commercial customer and has minimum water consumption equal to at least 150,000,000 gallons per month;
 - c. The customer is a private utility company holding a certificate of convenience and necessity from the state that (i) resells water to single family or multi-

- family dwellings only and (ii) maintains a water distribution system in public rights-of-way or public easements; or
- d. The customer would otherwise be a commercial customer and is in compliance with a conservation plan pursuant to chapters 288 and 295 of title 30 Texas Administrative Code to reduce its minimum water consumption from 150,000,000 or more gallons per month while continuing to provide the same or higher levels of production or services.
- (2) *Contract requirements.* Upon receipt of a completed application, the department shall determine water availability and, if sufficient water is available for the customer, shall secure a written agreement from the applicant, which shall include:
- a. The term of the agreement;
 - b. The minimum monthly quantity of water to be taken by the customer. This minimum for customers other than those described under items (1)a, (1)c and (1)d of this subsection shall be 150,000,000 gallons per month. Customers defined under items (1)a, (1)c and (1)d of this subsection shall be permitted to change the minimum monthly quantity only in accordance with the terms of their contracts;
 - c. The designation of the point or points of delivery;
 - d. Rates as described in subsection (f)(3) of this section; and
 - e. Any special requirements regarding metering or facilities desired by the parties.

No agreement for contract treated water service shall be valid unless approved by the city council.

- (3) *Rates and charges.* Treated water supply contract customers shall incur monthly water charges for each meter including a defined charge based on the customer's meter size, measured by diameter in inches, and the volume charge for metered water usage. The contract rate for all water supplied under an untreated water supply contract is as stated in the city fee schedule for the volume of water, including minimum monthly amount and amounts in excess of the minimum monthly amount, as specified in the contract for each customer type as set out below, for treated water supply with airgap or treated water supply without airgap.

For contract treated water customers, the monthly charge shall equal:

$P \times R$

plus

$(P-M) \times F$

Where:

- P = The total water delivery to such customer during the month expressed in units of 1,000 gallons, except if the minimum monthly amount of water specified in the customer's contract is greater than P, P shall equal M;
- M = The minimum monthly amount of water specified in the customer's contract expressed in units of 1,000 gallons; and
- R = The applicable rate stated for this provision in the city fee schedule contract treated water service with or without airgap. An airgap shall be required of every customer unless the director determines that this requirement be waived because of prior conditions, excessive pressure, or health and safety concerns.
- F = The contract treated water service monthly charge factor stated for this provision in the city fee schedule.

A contract treated water service charge premium per thousand gallons shall apply to amounts taken in excess of the minimum monthly amount.

In the event a billing period is longer or shorter than 30 days, a daily charge shall be determined using the formula specified above, but with P defined as average daily amount of water delivered during the billing period and M defined as the monthly minimum divided by 30. Such daily charge shall then be multiplied by the number of days in the billing period.

(g) Paperless Billing rebate. The director is authorized to offer customers a paperless billing rebate for switching from paper billing to paperless billing. The initial rebate is set at \$0.50, the director may adjust the rate once per year based on changes in costs.

Sec. 47-63. Minimum monthly charges generally.

- (a) Wherever meters are connected to the city's water distribution system, the minimum monthly charges called for in section 47-61 of this Code shall apply (except as otherwise specifically provided in this chapter), regardless of whether or not any water is actually used or consumed and regardless of whether or not the premises to which connection is made have water service from another source. ~~There~~ Where more than one meter is used to serve the premises, the total charge for water service shall be computed as if each were connected to separate premises, except a multifamily residential customer that has established an umbrella account shall pay the minimum monthly charge based on the size of its largest meter only.
- (b) The department shall create a meter lock fee and place such a fee on the city fee schedule.
- (c) If a meter lock can be placed on the meter, a customer may request that the department place a lock on the meter. Once the department determines that a lock can be placed, the department will place a lock on the meter after the customer pays a one-time fee. Once the meter is locked, then the defined charge described in section 47-61 shall be suspended from their account until service is restored.
- (d) During the suspension of service through this section, if the department determines that the meter lock has been tampered with but the meter did not register water usage, then the one-time replacement fee will be re-assessed and there will be no other penalty.
- (e) During the suspension of service through this section, if the department determines that the meter lock has been tampered with and the meter registered water usage, a fine as described under Section 47.7 may be assessed and all defined charges will be reapplied and reassessed going back to the placement of the meter lock. All defined charges shall be assessed and the owner will be ineligible for a new meter lock.
- (f) When service is reactivated by the customer, if there has been no change to the service unit calculation of the property, then the customer can petition the director to have any impact fees associated with reactivating the account waived. This petition may be rejected if the director finds there has been a change in the service unit calculation to the property.
- (g) The minimum charges called for in section 47-61 of this Code shall be in addition to and not credited against the charges made for installation of the meter and making connections as provided elsewhere in this Code.