

City of Dripping Springs

CODE OF ORDINANCES

VOLUME: 1

ARTICLE 10: UTILITIES

CHAPTER 4: WASTEWATER & SEWER

SUBCHAPTER A: GENERAL POLICIES AND RATES

ORDINANCE NO. 1720.08

**ORDINANCE ESTABLISHING WASTEWATER SERVICE
RATES, CHARGES, AND TAP FEES AND
ADOPTING GENERAL POLICIES WITH RESPECT TO
THE CITY'S WASTEWATER SYSTEM**

ADOPTED
September 8, 2009

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

WHEREAS, pursuant to Chapter 402 of the Texas Local Government Code the City of Dripping Springs (the "City") is authorized to adopt and enforce all necessary rates, charges, fees, and other terms and conditions for providing City wastewater facilities and services;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRIPPING SPRINGS as follows:

I. General Policies

A. Definitions. For purposes of this Ordinance, the following terms shall have the meanings indicated:

1. "Connection" shall mean and refer to each residential unit occupied by a separate family, including separate apartments located within a single building, and each business unit occupied by a separate business, including separate establishments within a single building.

2. "City's representative" shall mean and refer to the Mayor, the City's designated wastewater engineer, or another authorized representative or employee of the City acting pursuant to the direction of the Mayor or the City Council.

3. "Customer" shall mean any existing customer or any applicant for service.

4. "Living Unit Equivalent" or "LUE" shall mean a single unit of service as defined by continuous duty maximum flow rate in gallons per minute for a 5/8" water meter using American Water Works Association C700-C703 standards. The number of LUEs shall be determined by the size and type of the water meter purchased for the property, so long as the meter is appropriately sized for the type of connection, as follows:

<u>Meter Size</u>	<u>LUE Fee Units</u>
5/8" simple	1
3/4" simple	1.5
1" simple	2.5
1-1/2" simple	5
2" simple	8
2" compound	8
2" turbine	10
3" compound	16
3" turbine	24
4" compound	25
4" turbine	42
6" compound	50
8" compound	80
6" turbine	92
10" compound	115
8" turbine	160
10" turbine	250
12" turbine	330

5. "Rules" shall mean and refer to this Ordinance and such rules and regulations as the City may adopt pursuant to its statutory and constitutional authority, including, but not limited to, Chapter 402 of the Local Government Code.

6. "System" shall mean and refer to the City's wastewater system.

B. All Services Charged. At no time shall the City render sewer services without charge to any person, firm, corporation, organization, or entity.

C. Rules. The Mayor is authorized to promulgate Rules necessary and convenient to the orderly and effective administration of this Ordinance, including the setting of fees and charges for City services not provided for herein; provided however, no Rules may contradict or negate the terms and conditions of this Ordinance.

D. Other Utilities. Any person or entity that plans to install other utility lines or underground cables in the area of the City's sanitary sewer collection lines shall, in addition to any other legal requirements, file its construction plans and schedules with the City and meet with the City's representative to review the engineering plans illustrating the location of the City's lines.

II. Connection Fees and Other Charges for Initiation of Service

Any person or entity desiring to make a connection to the System shall pay the applicable sewer connection and inspection fees to the City at the time the application for such connection is submitted. No connection shall be made until such fees are paid. The City may waive payment of any fees provided for in this Ordinance on a nondiscriminatory basis, to the extent the City obtains federal or state grant funding to cover the balance of such fees. In addition to the requirements of this Ordinance, new development or new service to existing structures not covered by Section II.A. below also must comply with any service Extension Policy established by City Ordinance or Rule.

A. Connection Fees for Existing Structures.

1. A connection fee of \$1,500 per Living Unit Equivalent for each wastewater connection, shall be charged and collected by the City for all sewer taps on any residential, office, retail, or commercial property (1) constructed and occupied on or before October 28, 2004 and (2) for which a City offer was accepted by submitting a completed sewer service application and paying the \$1500 connection fee as required by the City's schedule for that purpose. The City's offer was time-sensitive and cannot be extended. The \$1500 connection fee includes the application fee as well as the cost of the sewer collection line and tap to the property line; however the property owner shall be responsible for construction and installation of the sewer line from the tap to the residence or other structure, subject to the City's agreements affecting certain customers of the Dripping Springs Water Supply Corporation.

2. After the effective date of this Ordinance, a connection fee of \$9,752 per Living Unit Equivalent for each wastewater connection shall be charged and collected by the City for all sewer taps on any residential, office, retail, or commercial property that has been constructed on or before the first effective date of this Ordinance. The applicant must submit a completed sewer service application and pay the connection fee as required by the City's application form. This section II.A.2. applies to all connections, unless they have met the requirements of section II.A.1 or are funded by grants obtained by the City for retail wastewater connections. The connection fee includes the application fee as well as the routine cost of the sewer collection line and tap to the property line; however the property owner shall be responsible for construction and installation of the sewer line from the tap to the residence or other structure. The City will accept applications filed pursuant to this section II.A.2. only in conformance with its schedule of wastewater connection availability and timing and subject to approval of the City's Engineer.

B. Capital Recovery Fees for New Development.

1. Applicability

This Section 2.B. applies to new development in the wastewater impact fee service area. If the City has a written agreement with the property owner providing for, among other things, the time and method of payment of the impact fees, then the terms of the Agreement govern the matters addressed in it.

2. Assessment of Impact Fees.

“Assessment” of the impact fee means a determination of the amount of the impact fee for New Development upon any particular occurrence specified in this ordinance, and is the maximum of the “Current Wastewater Impact Fee” in the **Section II.B.4** schedule. The assessment is automatic, requiring no other specific act of the City. Assessment of an Impact Fee for any new development shall occur as follows:

(a) If the City and the property owner have entered into an agreement providing for the time and method of payment of the impact fees, then assessment occurs as provided in the agreement. Otherwise, assessment shall occur as set forth in §§ (b) - (d) below

(b) For a connection or development that is submitted for approval pursuant to the City's subdivision regulations after the effective date of this Section, assessment occurs at the time of final plat recordation.

(c) For land on which new development occurs, or is proposed to occur, and no platting is required, assessment occurs at the time a complete application is filed for an individual meter connection.

(d) For any connection of not included in §§ (a)-(c) above, assessment occurs at the time a complete application is filed for an individual meter connection.

3. Collection of the Impact Fee.

(a) If the City and the property owner have entered into an agreement providing for the time and method of payment of the impact fees, then collection of the impact fee occurs as provided in the agreement. Otherwise, collection shall occur as set forth in §§ (b) - (d) below

(b) The property owner shall pay the assessed impact fees to the City within 30 days of the sooner to occur:

(i) the date that the City issues the first building permit for the new development, if the land is subject to the requirement to obtain a building permit

(ii) the date of the completed application for the wastewater service, if the land is not subject to the requirement to obtain a building permit;

(c) The City may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. § 12745, after the service unit is constructed.

(d) If any impact fee is assessed, but may not be collected under Section 395.016(c) of the Texas Local Government Code because a building permit is issued within one year of the adoption of the City's impact fees and property is not subject to an agreement establishing the timing and method of collection of impact fees, then the City is authorized to collect the assessed impact fee if the building permit expires and a new one is issued outside the one-year period provided for in Section 395.016(c).

4. Wastewater Impact Fee Schedule.

Description	% of Max	Effective Date	Impact Fee per LUE
Maximum Impact Fee per LUE	100%	Approved May 13, 2008	\$19,504.00
Maximum Assessable Wastewater Impact Fee per LUE	50%	Adopted May 13, 2008	\$9,752.00
Current Wastewater Impact Fee per LUE	50%	Effective May 13, 2008	\$9,752.00

C. Inspection and Disconnection Fees

If the customer requests an inspection of a wastewater line or connection, or if the City's Plumbing Code or other agreement requires an inspection of a wastewater line or connection, the customer must pay the inspection fee. The customer must pay the City the fee for the first inspection before the connection is installed and must pay the fee for any additional inspections when the inspection is requested.

If a facility fails inspection, the Customer must pay a re-inspection fee for any additional inspection. If the property is not accessible for inspection at the time an inspection is scheduled, the inspection is deemed failed. All inspection and re-inspection fees are set by the City Fee Schedule that is in effect at the time the fee is due.

The City may disconnect a customer at the customer's request, or for the customer's violation of the City's rules and ordinances related to wastewater service, including failure to pay wastewater rates and charges, the discharge of dangerous substances, or other unlawful use of the System. Upon disconnection, and upon written demand by the City, the

customer must pay a disconnection fee equal to the City's cost of the disconnection plus 25% to compensate the City for related costs and expenses, including the City's administrative expenses.

D. Security Deposit. A security deposit per sewer connection shall be paid to the City by each residential customer prior to the initiation of service in the following amounts:

<u>Meter Size</u>		<u>Security Deposit</u>
5/8		\$100.00
3/4"		\$150.00
1"		\$250.00
1-1/2"		\$500.00

A security deposit per commercial connection shall be paid to the City by each commercial customer in an amount equal to \$100.00 times the number of fee units for the meter purchased as set forth in Section I.A.4. above, or \$10,000, whichever is less.

Security deposits shall not be transferable to another party and shall be held by the City to assure the prompt payment of all bills for wastewater services to the customer. At its option, the City may apply all or any part of a customer's security deposit against any delinquent bill of the customer due and owing to the City. Upon discontinuation of service, whether because of the customer's delinquency or upon the customer's request, the deposit shall be applied against amounts due, including any disconnection fees. Any portion of the deposit remaining after deduction of such amounts shall be refunded to the customer. In no event shall the security deposit bear interest for the benefit of the customer.

E. Transfer Fee. A customer who desires to transfer its wastewater service from one address within the City to another address, or to change the wastewater service at one address from one customer name to another customer name, shall, in addition to complying with other requirements for service, pay a transfer fee of \$30.00 per LUE to the City on or before the time of the transfer of service.

F. Additional Charges. The customer must pay any non-routine charges incurred by the City in connection with any sewer tap installation or inspection and those charges are due and payable to the City upon demand. If a customer's connection requires excavation of the sewer main, then the City will determine whether to accept the customer's application, any excavation may only be performed by the City, and the customer must pay the City for the excavation at the City's cost plus 25% to compensate the City for related costs and expenses, including the City's administrative expenses.

G. Homebuilder Deposit. Each homebuilder seeking wastewater service from the City must maintain a builder deposit of (i) \$1,000.00, if one house is being constructed by the homebuilder; or (ii) \$2,000.00, if more than one house is being constructed by the homebuilder. No sewer connections will be sold to a homebuilder until this deposit is paid. Homebuilder deposits are non-transferable, and any inspection fees coming due to the City may be charged against this deposit. At its option, the City may apply all or any part of a

Homebuilder's deposit against any delinquent bill of the builder due and owing to the City. Upon discontinuation of service to the builder, the deposit shall be applied against amounts due, including any disconnection fees, whether because of the builder's delinquency or upon the builder's request. Any portion of the deposit remaining after deduction of such amounts shall be refunded to the builder. In no event shall the Homebuilder's deposit bear interest for the benefit of the builder

H. Application for Refund of Connection or Capital Recovery Fee

If:

- 1 the City has approved a person's application for wastewater service, and the person has paid the required fees, including all section II.A Connection Fees (Existing Structures), or section II.B. Capital Recovery Fees (for New Development); and
- 2 the City has not, within 2 years of receiving the fees, begun providing service to the service address, or put the service address on the City's schedule of wastewater connection availability, then:

upon the Applicant's written request to the City agreeing to the following terms, the City will:

- 3 refund the applicant's section II.A Connection Fee for Existing Structures, or section II.B. Capital Recovery Fee for New Development, and
- 4 cancel the person's application for service.

No other fees will be refunded under this section II.H. The person may re-apply for service at a later date (subject to available capacity in the City's collection and treatment System), or the City may require the property owner or occupant to connect the service address at a later date. The future connection will be subject to all connection fees, rates and charges in effect at the time of the future service request or City-required connection. The person may re-apply only under sections II.A.2. or II.B. of this ordinance, but may not reapply under section II.A.1.

III. Wastewater Service and Rates

A. Applications for Service.

1. Any party desiring to receive wastewater service from the System shall make an application for such service to the City on forms provided by the City. All applications shall be made by the record owner or occupant of the property for which service is being requested. Proof of residency shall be furnished to the City's representative upon request. Unless otherwise specified in the form, the application fee is \$30.00. After the City has accepted the application and received all fees and charges due for the requested service, the City shall notify the customer to connect the sewer line(s) for which the customer is responsible (the sewer lines from the residence or other structure on the property to the tap

on the System); thereafter, the customer shall be required to connect its sewer line(s) to the System reasonably promptly, but in any event no later than the date when service becomes available.

2. If the customer fails or refuses to connect to the System on or before the date when service becomes available, then, upon 30-days written notice from the City, (1) the customer shall nevertheless be required to pay for the wastewater service requested in the application, pursuant to Sections III-IV of this Ordinance and (2) the City may, in its sole discretion, connect the customer's sewer lines to the System at customer's expense, for which the City may seek and collect reimbursement from the customer for its costs in making such connection, including engineering, contractor and administrative costs. Alternatively, the customer may apply for a refund under subsection 3. below.

3. If:

- a. the City has approved a customer's application for wastewater service, and the customer has paid the required Connection Fees, consisting of all section II.A Connection Fees (Existing Structures), or section II.B. Capital Recovery Fees (for New Development); and
- b. wastewater service is not available to the service address within 2 years of receiving the Connection Fees, or is available, but the City is not requiring the applicant to connect the service address, then:
- c. the applicant may send the City a written request agreeing to one of the following two options, and the City will comply with the request. The options are:
 - i. The City will keep the Connection Fees, cancel the reservation of wastewater capacity (LUEs) stated in the application, and release the applicant from monthly wastewater payment obligations. The applicant will release the City from any obligation to provide the following "Benefits": (i) install up to 100 feet of private lateral sewer lines to the service address and (ii) decommission the septic system at the service address. The City will provide service at the earliest time when the City determines that capacity in the system is available to the service address. Future connection will not be subject to any additional Connection Fees, but will be subject to all other fees, charges and other requirements for sewer service in effect at the time of the connection.
 - ii. The City will refund the applicant's Connection Fees and cancel the person's application for service to the service address. The owner or occupant of the service address may re-apply for service at a later date, subject to the City's decision that capacity in the system is available to that service address. Future connection will be subject to subsection II.4. and all Connection Fees, rates and charges in effect at the

time of the future application. The person may re-apply only under sections II.A.2. or II.B and will not receive the Benefits.

No other fees will be refunded under this section III.A.3. This section III.A.3. does not affect the City's continuing authority to order a property owner or occupant to connect the service address to the system, subject to all requirements of this Chapter 4, at any time for reasons of public health and safety. If the terms of this subsection III.A.3 conflict with a contract between the City and the applicant, owner or occupant of the service address, the terms of the contract control.

B. General Provisions.

1. Bills for sewer service may be based on (i) the metered water consumption by the customer during the winter season based upon the average of the monthly readings of the customer's water meter for the preceding December, January, and February; (ii) projected water usage, if the customer has no water usage history or (iii) the minimum usage charge with no gallonage charge if the customer has applied for service and the service is available, but the customer has not physically connected to the system.

2. If a residential customer does not have an acceptable history of water usage during the preceding December, January, and February, the customer's monthly sewer bill shall be calculated based upon (i) the customer's current monthly water usage; or (ii) on the basis of 10,000 gallons water usage per month, whichever is less.

3. If a nonresidential customer does not have an acceptable history of water usage during the preceding December, January, and February, the customer's monthly sewer bill shall (i) be calculated based upon the customer's current monthly water usage; or (ii) be calculated by measuring actual sewage volume, on a basis acceptable to the City, at the expense of the customer, and correlating such volume to the schedule set forth below.

C. Wastewater Service Rates. The following monthly wastewater rates per LUE for the collection, treatment and disposal of wastewater are in effect for residential customers, including multi-family and apartment, and commercial customers both within and outside the corporate limits of the City from the effective date of this Ordinance:

Minimum Usage Charge per LUE		\$25.00
Gallonge Charge		\$3.50 per 1,000 gallons

In addition, the City shall charge each customer any regulatory assessment required by the Texas Commission on Environmental Quality.

The rates fixed herein are estimated to be sufficient to provide for the expenses of operation, maintenance, and replacement of the System, including debt service. Such rates may be revised from time to time as may be necessary. Prior to revising such rates, the City may obtain a cost-of-service audit to be used as the basis for a rate increase.

D. Water Usage Not Introduced into the System. Wastewater customers not introducing all of their water usage into the System may apply to the City for exemption from wastewater charges for the water usage not introduced, by requesting the installation of a meter to determine the amount of water that is not being introduced into the System.

E. Discharges to System of Dangerous Substances. No residential user shall introduce any “toxic substance” or “hazardous substance” or “hazardous waste,” as those terms are defined by applicable federal and state law (collectively, “Prohibited Substances”) into the System without first receiving specific written approval from the City. The City reserves the right to terminate wastewater service at any time if the City determines that discharges of Prohibited Substances are occurring. Any damages to the system or other costs to the City caused by discharges to the System of Prohibited Substances or of abnormally strong domestic sewage or other substances which are incompatible with the System, shall be borne exclusively by the discharger of such wastewaters and at no expense to the City. Such costs for which the discharger is responsible include, but are not limited to, the costs of restoring wastewater treatment services, clean up and restoration of the environment, and sludge disposal. The City reserves the right to terminate wastewater service at any time if the City determines that such costs have not been, or will not be, paid in a timely manner.

IV. Billing and Delinquent Accounts

A. Billing. The City, or its authorized agent, shall bill each customer monthly for all wastewater services rendered in the preceding month. All bills shall be due on the due date as specified on the bills and shall become delinquent if not paid as set forth on the bills. For accounting purposes only, and with City Council approval, the City may write off accounts receivable over ninety (90) days past due. This shall in no way relieve the past due customer of any liability for payment. The City may turn all overdue accounts over to a collection agency for appropriate action.

B. Charges on Delinquent Accounts. A late charge of ten percent (10%) of the amount of the wastewater bill shall be added for each monthly billing date the delinquent amount, including delinquent fees and charges, remain unpaid. The City reserves the right to waive any late charge or penalty for good cause and when the best interest of the City is served by such waiver.

C. Discontinuance of Water Service. If a wastewater bill remains unpaid for fifteen (15) days past the due date, water service may be discontinued by the City in accordance with this paragraph. Prior to termination, the customer shall be notified of the amount due by a written notice placed at the customer's service address or sent by United States Mail, First Class. The notice shall state the date upon which water service shall be terminated, which date shall be not less than seven (7) days from the date such notice is sent or placed at the customer's service address. Such notice shall state the time and place at which the account may be paid and that any errors in the bill may be corrected by contacting the City's representative, whose telephone number shall also be given in the notice. Provided, however, that in the event the customer contacts the City's representative within such seven (7) day period, the City may, at its option, allow the customer to make arrangements to pay the delinquent amount in installments to be approved by the City's representative.

Unless alternative arrangements have been agreed to by the City, once a termination notice has been sent to a customer, payment of the amount due must be in the form of cash, cashier's check, or money order only, no personal checks will be accepted. In addition, the notice renders the entire account delinquent and the entire account must be paid in full in order to avoid interruption of service.

Prior to termination of service, the customer shall receive three (3) days notice of such termination by the City placing the notice at the customer's service address. After termination of service, payment by the customer of delinquent amounts due and reconnection charges shall be payable only cash, money order, or cashier's check. No personal checks will be accepted. The City reserves the right to take and apply any portion of a customer's wastewater security deposit against delinquent amounts due and owing to the City under this Ordinance.

D. Dishonored Checks. Water service shall be discontinued in accordance with this paragraph for any account for which a check for payment has been dishonored by the financial institution. Three days prior to termination, the customer shall receive a notice placed by the City's representative at the customer's service address. Payment by the customer who has presented a dishonored check shall be made by cash, money order, or cashier's check. Personal checks will not be accepted. The City further reserves the right to charge a customer paying a bill with a check which is dishonored an amount established from time to time by the City, which amount shall be based on the prevailing or usual charges made for dishonored checks and drafts by other vendors in the same general area as the City.

E. Civil Suit. The City reserves the right to institute suit for the collection of any amounts due and unpaid, together with interest thereon at the maximum legal rate, plus court costs and reasonable attorneys' fees.

F. Discontinuation of Water Service By Dripping Springs WSC. For those wastewater customers of the City being provided water service by the Dripping Springs Water Supply Corporation (the WSC), discontinuance of water service may be effected by the WSC in accordance with the terms and conditions of the WSC's current water tariff, an interlocal agreement with the City, or by order of the Texas Commission on Environmental Quality.

V. Severability and Validity

If any section or subdivision of this Ordinance is held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance which shall continue in full force and effect according to their terms. This Ordinance shall be in full force and take effect from and after its passage and approval as provided by law.

VI. Filing of Ordinance

The City Secretary is hereby directed to file a copy of this Ordinance in the principal office of the City.

PASSED AND APPROVED this 8th day of September, 2009.

Todd Purcell, Mayor

ATTEST:

JoAnn Touchstone, City Secretary
City of Dripping Springs