

ORDINANCE NO. 03-2017

AN ORDINANCE OF THE CITY OF SAN ANTONIO, FLORIDA,

AMENDING THE CITY CODE, CHAPTER 80, ARTICLE II, ADDING PROVISIONS PROVIDING FOR CLARIFYING, UPDATING AND EXTENDING THE CITY'S UTILITY CODE; PROVIDING DEFINITIONS; PROVIDING DETAILS OF ADMINISTRATION, WATER METERS, REQUESTS FOR SERVICE BY POTENTIAL RESIDENTIAL AND COMMERCIAL CUSTOMERS, CONSTRUCTION REQUIREMENTS, SERVICE CONTRACTS, ANNEXATIONS OF PROPERTIES REQUESTING SERVICE OUTSIDE THE CITY; PROVIDING FOR FEES, CHARGES AND DEPOSITS, CLASSES OF SERVICE, LIMITATIONS ON FIRE SERVICE, LIABILITY FOR NONPAYMENT OF RATES AND CHARGES; PROVIDING CAPACITY FEES; PROVIDING EASEMENTS AND SPECIAL AGREEMENTS; PROVIDING A MANDATORY CONNECTION POLICY; PROVIDING REGULATIONS AND ENFORCEMENT FOR TAMPERING WITH CITY UTILITY FACILITIES, UNLAWFUL CONNECTIONS AND DAMAGES TO CITY UTILITY FACILITIES; PROVIDING FOR MOVING AND AMENDING DIVISION 3 "CONSERVATION," AND DIVISION 4 "WELLS," AND MOVING AND RENUMBERING DIVISION 2 "CROSS CONNECTION CONTROL"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

FINDINGS

The members of the City Commission have reviewed the existing code and have determined that additional clarifications and regulations are required in the interest of the public safety, health, and welfare of the citizens, and the efficient, effective operation of the City's utility system, as well as reasonably fair, equitable and consistent potable water service to its citizens and customers.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF SAN ANTONIO, FLORIDA, AS FOLLOWS:

SECTION 1. ADOPTION OF FINDINGS. The above recitals represent the legislative findings of the City of San Antonio, Florida, relative to the provisions of this Ordinance and are incorporated herein by reference.

SECTION 2. AMENDMENT OF THE CITY CODE.

Article II of Chapter 80, is hereby amended with additions shown in red and underline, and deletions shown with ~~strikethrough~~.

Chapter 80 - UTILITIES

ARTICLE I. - IN GENERAL

Sec. 80-1. - Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms and phases used in this chapter shall be as follows:

Applicant -- Any developer or property owner who is applying to receive potable water service from the City.

Capacity Fee -- The fee charged to customers applying for service for new or expanded construction, or for buildings that have been abandoned or unused for a period in excess of five years, to pay for the capitalized costs of providing treatment capacity for the Applicant's project.

City -- The City of San Antonio, Florida.

City Commission or Commission -- The City Commission of the City of San Antonio, Florida

Connection Fees -- Those fees for connection of the meter assembly to the utility system.

Connection Point -- The point within the City's existing utility facilities where an Applicant will be required to connect the utility facilities to be constructed by the Applicant to the City utility facilities, regardless of whether the utility facilities are designated to be owned by the City in the future or to continue to be owned and maintained by the Applicant or customers.

Customer -- Any individual, corporation, partnership or other legal entity which is the owner or tenant of the property to be served and which has executed an agreement for service or deposit agreement and has commenced to receive continuous potable water service to a property or building under its ownership, regardless of whether the individual, corporation, partnership or other legal entity inhabits the building(s) or not.

Customer Service Assembly -- All pipes, shutoffs, valves, fixtures and other appliances and apparatus of every kind or nature lying downstream from the point of delivery and which remain the responsibility of the customer.

ERC -- See the definitions of "water equivalent residential connection" below.

Existing Potential Applicant -- Any property owner not already connected to the utility system who has already applied for service outside the City limits or has a City building permit prior to the effective date of this chapter and has completed construction or will construct within three months of the effective date of this chapter.

Master Meter -- A single meter serving two or more units within a project. For the purpose of this definition as utilized in this chapter, "facility" includes, but is not limited to, a multifamily residential or multiunit commercial complex, project or other structure. The foregoing includes, without limitation,

condominiums, apartments, duplexes, mobile home parks, hotels, motels, travel trailer parks, shopping centers, office or professional buildings or complexes.

Meter -- The measuring device purchased, owned and installed by the City for use on a service line for accurately measuring water used by a customer.

Off-Site Utility Facilities -- Those utility facilities to be constructed totally outside of the Applicant's property.

On-Site Utility Facilities -- Those utility facilities to be constructed within an Applicant's property, whether those utility facilities are to be ultimately owned by the City or not.

Point Of Delivery -- That point at which the City ownership and control over utility facilities ends and the customers' responsibility commences. Unless otherwise provided by a written contract approved by the City Commission, the point of delivery for all customers shall be at the outflow ("downstream") side of the meter.

Potential New Applicant -- Any property owner applying to use City water after the effective date of this chapter or completing construction of a building within three months after the effective date of this chapter. Any expansion of an existing nonresidential building in excess of 25% of the existing structure shall also be defined as a potential new Applicant.

Project -- The structures and improvements owned by a customer or to be constructed by an Applicant.

State Or Federal Law -- Refers to any applicable statute and rules promulgated thereunder, including, without limitation, F.S. Ch. 403, and the administrative codes promulgated thereunder, the Federal Clean Water Act (CWA), and the Federal Safe Drinking Water Act.

City -- The City of San Antonio government.

City Engineer -- Depending on the specific needs for a given project, this may be either an engineer contracted by the City to serve as the City Engineer, or a consulting engineer hired under a continuing contract or for the specific task needed.

Unit -- A complete single or wholly contained space, area, place, thing, or structure which is or can be occupied by persons or objects and shall be further classified as either of the following:

A. Residential Unit -- One or more rooms in a residential or commercial building which are used or intended for use as a separate and complete living facility for no more than one family and generally including provisions for living, sleeping, eating, cooking and sanitation, regardless of whether the unit is owner- or tenant-occupied or available for rental, lease or other form of occupancy. For the purpose of this definition, each mobile home park rental space or lot, or a rental space or lot for other such manufactured structures, and any recreational vehicle park space or lot, or docking space for a live-aboard vessel in a marina, whether any of the foregoing are occupied or not occupied, are all considered

residential units. Each hotel, motel, guest home, or adult congregate living or nursing home room is considered a separate residential unit.

B. *Nonresidential Unit* -- All structures, buildings, or a group of one or more rooms or spaces in such buildings or multiple structures arranged, designed, used or intended to be used for occupancy by persons or objects as a unified nonresidential operation by an owner, tenant, lessee or occupant for nonresidential purposes or uses.

Utility Facilities -- Except for the pipes and equipment making up the customer service assembly, all City potable water mains, hydrants, service lines and related appurtenances and equipment not related to the water supply or water treatment plant equipment.

Utility System -- All personnel, contract operations companies, supplies and equipment, including tangible and intangible, as well as real and personal property, making up the City Water Commissioner, including, without limitation, City-owned utility facilities, water supply and treatment facilities, Water Commissioner personnel and office equipment. Contract utility managers and operators shall be deemed to be part of the utility system by acting as the Water Commissioner, although the Water Commissioner or that commissioner's designee may act as the Water Commissioner.

Water Capacity -- Theoretical availability of water supply facilities, water treatment facilities and water distribution utility facilities in sufficient size and design to accommodate future connections by Applicants.

Water Commissioner -- The City Commissioner appointed by the Mayor as provided by the City Code to have the responsibility of the maintenance of the entire City water system, and including any other City employee, agent, or officer designated or delegated authority by the Water Commissioner, or temporarily appointed by the Mayor because of the unavailability of the Water Commissioner.

Water Equivalent Residential Connection (ERC) -- The amount of potable water determined to be the average daily demand for a single residential unit with three bedrooms and two bathrooms on less than a one-acre lot. A single water ERC shall be 250 gallons per day (gpd). ERCs for other residential, nonresidential, or commercial, use shall be determined pursuant to the rules and regulations or the City Engineer's calculations.

Water Supply And Treatment Facilities -- The land, equipment, supplies and inventory used or provided for use by the City to produce raw water from wells, the treatment of potable water, and providing pressure to the water in the utility facilities used for distribution of the water to the customer's building. Includes, without limitation, treatment plants and related lines, equipment, laboratories and equipment, trucks, construction and repair equipment and other rolling stock, and office equipment at the wastewater treatment plants.

Secs. 80-2—80-30. - Reserved.

ARTICLE II. - WATER

DIVISION 1. - GENERALLY

Sec. 80-31. Administration.

(a) The duties and responsibilities of City personnel and departments under this chapter shall be administered and delegated by the City Water Commissioner.

(b) Authority. This chapter is adopted pursuant to the City's constitutional home rule authority provided in F.S. § 166.021 and Ch. 180 and the City Charter.

(c) Jurisdiction. This chapter shall apply to all incorporated areas of the City and any other areas outside the City limits authorized to be served by the City in accordance with chapter 180, F.S., home rule powers, or by agreement under such terms and conditions as the Commission may set forth.

Sec. 80-312. - Use and consumption; metering.

(a) Every consumer of water of the city shall be governed by and subject to the rules and regulations of the city with reference to the use and consumption of water supplied by the city. Except as exempt pursuant to ~~section 80-96~~ division 12 (Wells), all water used shall be purchased through the city's water system.

(b) All necessary water meters shall be furnished by the city at the customer's expense, and shall remain the property of the city. A customer desiring a water meter larger than the size of the water meter then in service shall pay to the city the city's engineering estimate for material, labor and equipment costs plus overhead for installing the larger meter less the salvage value of the smaller water meter removed. In addition, the customer shall also pay the difference in the cost of the associated water connection charges, if applicable, of the larger and smaller water meters.

(c) All water service to single-family living or single commercial structures shall be individually metered. Unless specifically authorized by the City in writing, it shall be unlawful to connect separate living units to the same utility service by any means whatsoever so as to obtain service for more than one single-family or commercial structure on one bill.

(d) The customer is responsible for the safekeeping of new and existing meters from damage due to excavation, vehicles and the like, and for keeping sites readily accessible for reading and service. Such meters shall not be fenced in without the written permission of the City. It is unlawful and a violation of this chapter for any person to vandalize or unlock any such meter. If any obstruction or lack of accessibility is not corrected by the customer within 7 days after written notification by the City, the City may take steps deemed reasonably necessary to ensure accessibility to read the meter, including, without limitation, disconnection of service until accessibility is granted and provided as required by the City, and the City may charge the customer's account the cost of any correction or disconnection/reconnection.

(e) All new development or construction approved for non-individually metered units, duplex units with common plumbing lines which are not under individual separate ownership or are collectively

owned by an entity as a rental development project or complex, and multifamily projects, are required to utilize a master meter. All master meter accounts shall be established in the name of the property owner or condominium association, or others, as may be deemed appropriate by the City.

(f) Unless otherwise authorized by the City in writing, all meters must be installed at the property line adjoining to, or immediately adjacent to, a public street, right-of-way, or in an easement as approved by the City, and not at individual lot lines adjacent to or abutting a private street, drive, or access.

(g) The City shall have the sole authority to authorize and approve the meter size and location necessary for the service requested based on the application and information submitted or available to the City.

(h) Where utility meters are broken or damaged by, or due to the negligence or willful acts of the customer, or those under the customer's control or responsibility, the cost of repair or replacement shall be charged to and paid by the customer in advance of such repair or replacement and prior to renewal of service. The customer charged for the repair or replacement may appeal that decision to the City Commission within 15 days of the assessment of the damage charge by filing with the Water Commissioner, a written appeal setting forth the basis of the appeal and the facts involved. The City Commission may render a decision on the appeal within a reasonable time from the date the appeal was filed. The decision of the City Commission shall be final.

Sec. 80-323. - Costs of establishing new water lines or extensions.

The owner and/or developer shall bear the costs of installing new water lines on his property. ~~In addition, the developer of commercial properties, planned unit developments and subdivisions~~ and shall pay the costs of extending existing water service to his property line in a manner consistent with this chapter.

~~Sec. 80-33. - Prohibited connections.~~

~~(a) No person shall tap, cut in, connect to, turn off or turn on water at any curbstop, corporation stop or valve, water line, water meter, or to in any way molest any water connection, water line, water meter or water main belonging to the city. City employees, only, shall make all connections, disconnections, etc., to the city water system.~~

~~(b) No person shall tap, cut in, connect to any private or public water lines used by another customer of the city.~~

Sec. 80-34. - ~~Application for permits; permits; rates, charges, fees, billing procedures and penalties;~~ withholding of service where there is a prior indebtedness.

~~(a) It shall be unlawful for any consumer to use any city utility service without first making written application to the city and paying all charges and fees required therefor. Application for service shall be made on forms furnished by the city and shall constitute an agreement by the consumer with the city to abide by the rules of the city with regard to its utility service. Application for service requested by firms,~~

partnerships, associations and corporations shall be tendered only by their duly authorized agents and the official title of such parties shall be signed to the application. Utility service at a given service address shall be provided in the name of one consumer only. The application form shall include the following statement concerning collection charges:

"The undersigned agrees to pay an additional charge equal to the cost of collection, including collection agency or attorney's fees and court costs if this account is placed in the hands of an agency or attorney for collection or legal action because of default in payment of any amount due."

(b) The city may withhold or discontinue service rendered under application made by any person, unless all prior indebtedness to the city of such person, household, organization or business for service has been paid in full. Nevertheless, no owner shall be billed for the indebtedness of a tenant that was a city customer, and no tenant shall be billed for the indebtedness of an owner that was a city customer.

Sec. 80-35. - Prohibition on reselling or transferring water.

(a) It shall be unlawful for any person without obtaining a written permit from the city (a) to resell or offer for resale any water purchased from the city or (b) to extend their water lines or transfer water purchased from the city through water line(s) for use by a third party, with or without additional compensation.

(b) This section, however, shall not prohibit the transfer of cost of the water to tenants, including use of a master meter for apartments and mobile home parks when so authorized by the city. In such case, apportioning or allocating the costs of water utility service among occupants of a master meter which is the responsibility of a consumer of record shall not constitute a sale or transfer of utilities, so long as the apportionment or allocation of costs reimburses the consumer of record for no more than the consumer's actual cost of utility service.

Sec. 80-36. Requests for Service

(a) No person shall subdivide real property or construct any residential, or commercial building within the incorporated area of the City without first requesting water service from the Water Commissioner. All requests for service shall be made by submitting a formal application for water service to the Water Commissioner. The initial application will be reviewed by the Water Commissioner to determine the apparent feasibility of, and requirements for providing service. The application form shall include the following statement concerning collection charges:

"The undersigned agrees to pay an additional charge equal to the cost of collection, including collection agency or attorney's fees and court costs if this account is placed in the hands of an agency or attorney for collection or legal action because of default in payment of any amount due."

(b) By filing the application or accepting utility service, the Applicant agrees to indemnify and hold the City harmless against any personal injury, including death, property damage, loss or cost, including attorney fees, that may directly or indirectly result from the installation of the project's utility facilities

or customer service assembly that are not caused due to negligence by the City or its officers or employees.

(c) A separate and independent building water service line and meter shall be provided for every building, except where an accessory building stands at the rear of another on an interior lot.

(d) In the construction of either on-site or off-site utility facilities, the Applicant shall use only materials and practices approved by the City, which materials and practices may be established in the rules and regulations or in accordance with direction from the Water Commissioner with advice of the City Engineer.

Sec. 80-37. Individual single-family homes.

Applications for single residential homes shall be made directly to the Clerk's office.

Sec. 80-38. Application forms.

(a) All Applicants for service in the City shall complete an application form provided by the Water Clerk and approved by the Water Commissioner.

(b) All applications for single or multifamily developments and commercial and other establishments involving construction of Utility Facilities or water or wastewater flows in excess of 2,000 gallons per day must prove ownership or legal control over the property wherein service will be rendered, and the applications shall be submitted by a registered professional engineer unless otherwise approved by the City.

DIVISION 2. Review of Applications Requiring Construction of Utility Facilities

Sec. 80-39. Preliminary and final reviews.

(a) Preliminary review. An application for service will be reviewed and evaluated as to the feasibility of providing service, with a written response issued to the Applicant indicating the availability or unavailability of service or requesting additional information. Upon receipt of the preliminary review response, the Applicant shall request a final review in writing.

(b) Final review. Within two weeks of receipt of a request for final review and the furnishing of all additional information requested, the Water Commissioner shall advise the Applicant in writing of the availability of service and, if service is available, the capacity fee, point of connection, required extensions, and any other related requirements.

Sec. 80-40. Agreements for service.

(a) If the Applicant accepts the general terms of service, the Water Commissioner shall prepare, or cause to be prepared, an agreement describing more specific requirements for the Applicant, including, without limitation, the Applicant's on-site and off-site Utility Facility construction responsibilities, connection point, and other special agreements, if applicable.

(b) Service agreement. For projects requiring major construction of Utility Facilities, or if in the opinion of the Water Commissioner and Engineer, the project requires a more comprehensive description of the rights and duties of the Applicant and the City, the Water Commissioner shall require that the Applicant execute and comply with a utility construction and service agreement, a draft of which shall be provided by the Water Commissioner. Service agreements must be in compliance with state and federal laws; therefore, in the event of an unresolvable conflict, state and federal laws and the rules promulgated thereunder shall prevail. Utility construction and service agreements must also comply with City ordinances and the Charter; therefore, in the event of an unresolvable conflict, the terms and provisions in the ordinances and Charter shall prevail, except that the City Commission may, by resolution, override specific provisions of this chapter with the advice of the Water Commissioner and City Engineer.

(c) All master-metered accounts shall be established in the name of the property owner or, in the case of rental property, the property owner or landlord as may be appropriate. In the case of condominiums, and when master meters are approved for mobile home, manufactured home and recreational vehicle parks and developments, the account shall be established in the name of the association or owner as may be appropriate.

(d) Deposit for professional fees. Prior to drafting any agreement, the Water Commissioner shall collect a deposit for the anticipated costs of the fees for the City's professional consultants and attorney necessary for the drafting of the service agreement and the City's contractual review and approval of the work needed to provide service to the Applicant's project. This deposit shall be calculated by the Engineer based on 5% of the utility facility construction costs for the project but in any event shall not be less than \$100. Additional deposits may be established in the service agreement as necessary. If the actual cost of City officers, employees, or agents exceeds the deposit, service shall be withheld until all such costs are paid. If the actual costs are less than the deposit, the remaining deposit shall be refunded within 60 days after service is commenced, unless other costs are anticipated.

Sec. 80-41. Annexation and inspection of projects outside City.

In order to protect the City's ability to serve its residents and supply its customers, the City shall not connect any water or sewer taps outside the City limits until the Project involved has been annexed into the City or, where applicable, has executed and complied with an annexation agreement and service agreement and the Utility Facilities and customer service assembly have been inspected and approved by the City.

DIVISION 3. Fees, Charges and Deposits

Sec. 80-42. Monthly service rates and charges; customer liability.

(a) Rates. Water rates, charges and deposits not specifically established in this chapter may be established by resolution of the City Commissioners and shall be on file in the City Clerk's office. Rates, fees and charges already in existence and not specifically established in this chapter shall continue in effect until such time as the Commission modifies them by ordinance or resolution.

(b) Deposits; Deposit agreements; Deposit refunds. For connections previously served water and/or sewer or connections where, in the judgment of the Water Commissioner, there is no need for the more comprehensive developer's utility construction and service agreement, the Applicant shall complete a deposit agreement briefly describing the requirements for service and establishing a deposit to be paid with execution of the agreement. The deposit shall be returned to the Customer after 24 billing periods provided that there have been no late payments, no returned payments, and no disconnections on the account during that time period. Otherwise, upon final settlement of the user's account, any unused balance of the deposit will be refunded without interest to the account name as listed on the deposit receipt. Deposits are not transferable to another user except in situations where appropriate legal documentation is provided.

(c) Manner of passage of rate increases. Before the city commission increases any rate, charge, or fee for water utility service, the staff shall provide notice of the proposed increase to each customer of the utility through the utility's billing process. The notice shall state the date, time, and place of the meeting of the governing board of the local government at which such increase will be considered. The notice required in this section is in addition to any notice and public meeting requirements for ordinance adoption as provided by general law.

(d) Liability for payment for services.

(1) All customers shall be responsible for charges for water flowing through the meter designated for their building(s) and all wastewater charges derived from that water use if applicable, regardless of whether they themselves inhabit the building receiving the service. No service shall be provided to customers who are delinquent in the payment of any rates, fees, or charges. Customers are responsible for terminating their service account with the City when ownership of the service location has been transferred to others. Customers may pass charges for utilities on to tenants, but in no event shall they charge a tenant in excess of what is allowed under section 367.022 F.S.

(2) The City shall not be responsible for leaks on private property or in the plumbing system beyond the Point of Delivery. The customer shall be responsible for leaks on the City's side of the Point of Delivery when such leaks are caused by the negligence of the customer or customer's invitees.

(e) Payment for services. The Water Commissioner's rules and regulations shall establish the procedure and deadlines for payment for services, delinquent accounts.

Sec. 80-43. Calculation of capacity fees.

(a) Policy; calculation. A capacity fee shall be paid by each Applicant to reserve capacity for the Applicant's use as otherwise provided herein. Capacity fees shall be uniform and based upon the projected costs of replacing the Water Supply And Treatment Facilities capacity used or projected to be used at the customer's location. An individual Applicant's capacity fees shall be based on the anticipated average daily water consumption for the type of development or establishment requesting or expanding service to its project. When existing structures connected to the system will require an increased water supply, additional capacity fees shall be charged based upon the anticipated increase in flow resulting

from the new demand. When existing structures connected to the system use a greater water supply and/or sewage capacity than they were originally allocated, additional capacity fees shall be charged based upon the increased flow resulting from the additional usage.

(b) The amount of additional capacity fees charged for the additional usage at an existing property or building where the the change in usage of the property or building will increase water demand substantially, may be calculated by the City based on calculations based on a chart of projected water usage provided by the City Engineer and adopted by the Water Commissioner in the Rules and Regulations; or, the average daily water usage for the most recent twelve-month period; the City Engineer's estimates based on fixture counts; or, historical use at a similar facility, whichever is likely to be closest to the actual addition demand in the opinion of the City Engineer. All additional capacity fees shall be paid at the rates in effect at the time of final connection of the utility system to the customer service assembly.

Sec. 80-44. Reservation of capacity.

(a) Reservation of capacity shall only be accomplished through a utility construction and service agreement. The capacity fee paid shall be in exchange for a theoretical reservation of the capacity of the Water Supply And Treatment Facilities required for the Applicant's use. The fee may be calculated by the City based on calculations based on a chart of projected water usage provided by the City Engineer and adopted by the Water Commissioner in the Rules and Regulations; or, the City Engineer's estimates based on fixture counts; or, historical use at a similar facility, whichever is likely to be closest to the actual addition demand in the opinion of the City Engineer.

(b) There shall be no refund of the capacity fee regardless of the amount used. Any transfer of reserved capacity allowed under this Ordinance is to be approved by the City, in its sole, unfettered discretion. Nevertheless, the Applicant shall not be authorized to transfer the reserved capacity except in a transfer of the whole parcel of property or project for which service was initially requested, to a new Applicant for that property, and only when such reserved capacity has already been paid for in full.

(c) The reservation of unused capacity for properties that remain undeveloped, remains open for the shorter of the date that service is commenced at the Applicant's property (not including construction water service) or a seven-year period. All capacity remaining unused for a period of five or more years is subject to resale by the City to other Applicants. The Applicant's future capacity needs will then be subject to the availability of such future capacity. Refunds of payments for reserved capacity after the seven year termination period shall be the remainder after deductions for administrative costs and professional fees, and deductions for Guaranteed Revenues, if any.

Sec. 80-45. Capacity fee amount.

The Capacity Fee shall be established by a rate study, and approved by resolution of the City Commission. The Capacity Fee may be amended from time-to-time as justified by additional rate studies.

Sec. 80-46. Deposit and use of capacity fees restricted.

(a) Enterprise funds. The City shall maintain a separate and distinct enterprise fund for the deposit of water capacity fees.

(b) Water Capacity Fees shall be restricted to expenditures for planning, construction and professional services used for development of new potable water treatment plant supply and capacity, land for new capacity, and to pay debt service for the financing of the new facilities, or other purpose allowed by law.

DIVISION 4. Construction of Utility Facilities

Sec. 80-47. On-site and off-site facilities.

(a) The Water Commissioner shall determine whether the City will construct the necessary Utility Facilities at the Applicant's expense, or the Applicant will perform such construction at its own expense. If the Water Commissioner requires that the Applicant is to construct all, or a portion of the Utility Facilities, the details of such agreement shall be provided in a utility construction and service agreement.

(b) Some Applicant-constructed utility facilities shall be owned by City. In the event that the utility facilities to be constructed by the Applicant are suitable for use for services to other future Applicants, the Applicant will be required to transfer ownership of the Utility Facilities pursuant to the terms of a utility construction and service agreement. The utility construction and service agreement may describe the acceptable manner of construction and inspection of the utility facilities.

Sec. 80-48. Easements or rights-of-way.

All Utility Facilities shall be installed by the Applicant in appropriate utility easements or rights-of-way of sufficient size to carry the City's facilities in a manner such that other utilities do not create unusually expensive and complex repairs due to crowded easements or rights-of-way. The City shall require easements from the Applicant rather than allowing installations in rights-of-way, except in exceptional circumstances. Utility facilities to be owned by the City shall only be installed in exclusive or preapproved nonexclusive utility easements specifically first dedicated to the City on a City easement form document or installed in City rights-of-way when authorized. Utility Facilities may be installed in Pasco County or state rights-of-way only once approved by that agency, and approved by the City, in writing, under a utility construction and service agreement which may address special issues, including, without limitation, the costs of relocation or repair of utility facilities in the event of future road work.

DIVISION 5. Special Agreements

Sec. 80-49. Authorization.

In some circumstances, the City may choose to require a special agreement with any Applicant. This special agreement may be a separate document or may be contained within the utility construction and service agreement.

Sec. 80-50. Facility oversizing.

Where the City finds that the utility facilities to be installed by a current Applicant may be reasonably connected to and utilized by a large number of other future Applicants, the City shall require the current Applicant to substantially oversize its utility facilities to accommodate potential future connections. The City may provide a special agreement seeking reimbursement for the Applicant from other Applicants connecting to those oversized facilities, for the reasonable costs of oversizing based on a hydraulic share calculation after deduction of the current Applicant's potential peak usage, including fire flows, or may be based on a front-footage basis when the City Engineer deems this calculation to be appropriate to calculate a fair-share payment for future Applicants. The reimbursable costs for oversizing shall not include, but such exclusion is not limited to, interest or debt charges, management fees, and expenses associated with inefficient, improper or dilatory construction practices. In the City Commission's sole discretion, a special agreement may require that the City reimburse the current Applicant from current funds and collect reimbursement from the future Applicants, or a special agreement may be used in conjunction with a refundable advance agreement.

DIVISION 6. Classes of Service

Sec. 80-51. Authority to establish classes of customers.

The City may, by resolution, establish different classes of service for implementation of rates and charges for customers from the ones established herein. The classes of service may be established to reflect the use and demand on the utility system, as well as other lawful considerations.

Sec. 80-52. Classes of utility service.

(a) Residential. Includes normal domestic potable water to single-family homes and individually metered manufactured homes, or recreational vehicles permanently installed on property of a size not less than 1/4 acre, owned or leased by the customer. At the discretion of the Water Commissioner, it may also include individually metered duplex or triplex units.

(b) Commercial. All customers which are not residential. Such customers shall include, but are not limited to, master metered mobile home or recreational vehicle parks, apartments, convenience stores, restaurants, shops and all forms of commercial establishments not otherwise classified.

(c) In City. Water service accounts in the City limits.

(d) Outside of City. Water service may be charged at a higher rate than In City accounts as allowed by law.

(e) Tenant. Water service to tenants of buildings. This class shall apply only to calculation of deposits recognizing the higher risk of nonpayment by tenants.

(f) Fire Service. When a fire sprinkler system connection or hydrant is installed by or for an Applicant or customer, the Applicant or customer shall pay, in advance, the cost of labor and materials, the costs of the City's staff and professional consultants used for legal, engineering consulting and inspections. Capacity fees shall also be imposed as allowed by law and as provided in this chapter. The Applicant or customer shall be solely responsible for designing and paying for the fire system and any modifications to the City's Utility System necessary to provide the fire flows desired by the Applicant or customer, or required by state law or Pasco County code. Such design shall be subject to the approval of the City's engineer, not as an assurance that the design will provide the fire flows sought by the design, but to advise the City as to demand on, and proper functioning of the City's Utility Facilities after construction of the new fire service. In the event that a rate study demonstrates that a periodic user charge is justified, the city may provide such new fire service rate in the manner provided by law and this chapter.

Sec. 80-53. Guaranteed Revenues. When an Applicant has contracted for service requiring a substantial reservation of capacity, but has not yet connected or has connected but has not used the full capacity reserved for that Project, that Applicant shall, by special agreement, pay the costs associated with holding that capacity for the Applicant's future use. The Commission may, by resolution, establish a charge for Guaranteed Revenues.

DIVISION 7. Mandatory Connections

Sec. 80-54. Policy.

It shall be the City's policy to require mandatory connection to the City's utility system whenever such connection is, in the opinion of the City Commission, either economically feasible or necessary to protect and preserve the public safety, health or welfare or to comply with the requirements of City financing instruments, such as grants, loans or bonds.

(a) Mandatory water system connections.

(1) Residential connections. Unless exempted by division 12 (Wells), and with the exception of residential subdivisions and apartment buildings which shall be deemed commercial establishments for the purpose of this chapter, all buildings containing uses that would be classified under this chapter as residential customers shall be required to connect to the water utility facilities and pay all required fees, disconnect from existing private wells, and become a customer of the City utility system when the City's water utility facilities abut that residential property, or are across no more than two lanes of roadway from an existing water main.

(2) Potential new Applicants must pay all fees and connect prior to issuance of a certificate of occupancy, while existing potential Applicants shall pay all fees and connect to the water utility facilities within 365 days of notice of such requirement by the Water Commissioner or Code Enforcement Officer,

but they must pay all fees prior to obtaining service. Although payment of fees and connection may be delayed as described above, the existing residential property owner shall apply for service no later than 60 days after receiving notice of the requirement.

(3) Commercial connections. Unless exempted by division 12 (Wells), all commercial potential new Applicants shall connect to City Utility Facilities. All existing commercial buildings shall connect within 365 days of notice that their property is within 500 feet of any adequate existing City Utility Facilities.

Sec. 80-55. Failure to connect; action by City.

If a connection is not accomplished within the time period required after notification by the City, the City Clerk may contact code enforcement or the City Attorney for enforcement of this Ordinance.

Sec. 80-56. Enforcement.

Code enforcement under the City's Code Enforcement Ordinance or any other lawful means, including injunction, may commence upon the property owner's failure to timely apply for service. Notice of the obligation to connect shall be separate from notice under the Code Enforcement Ordinance and shall be delivered in the same manner as code enforcement citations.

DIVISION 8. Water Commissioner responsibilities.

Sec. 80-57. The Water Commissioner shall make a reasonable attempt to provide continuous, uninterrupted service according to industry practices and as provided in this chapter. The Water Commissioner may draft rules and regulations, to be approved by resolution of the Commission, describing in more detail the services which the City shall provide, the rates, charges and fees, plumbing and utility facility requirements, disconnection and reconnection of service, backflow prevention, administrative procedures, the duties and responsibilities of the customer, and other relevant matters.

DIVISION 9. Unpaid Service Charges

Sec. 80-58. Application of deposit to delinquent account.

When any account becomes delinquent for 15 days apply the deposit made by the customer to the delinquent account the City may apply the deposit to the outstanding bill, and thereafter require that the deposit be restored to an amount established in the rules and regulations current at the date of restoring the deposit.

Sec. 80-59. Accrual of interest on charges.

All charges and late charges for water service rendered to any customer by the City after the effective date of this chapter which remain unpaid 60 days after the past due date of the water charges shall accrue interest at the prevailing legal rate until all charges, late charges, and interest thereon shall be paid in full by the customer.

Sec. 80-60. Liens

(a) All amounts which may hereafter become due to the City for the use of City water shall become a lien against the interest of the contracting party in the houses, lands and tenements where the City water may have been used, in accordance with Florida law.

(b) City Clerk to file liens with County Clerk. In order to apply the liens against purchasers in good faith, the City Clerk shall file the liens with the County Clerk in the manner required by the County Clerk at a frequency sufficient to protect the City from losses in excess of \$100.

(c) Enforcement of liens. Liens shall be enforced as is now or may hereafter be provided by the laws of the State of Florida and the ordinances, resolutions or rules and regulations of the City.

DIVISION 10. General Regulations.

Sec. 80-61. Liability of City for damage.

The City shall not be liable for any damage to any customer of any utility service provided by the City due to failure of supply, or interruption of services or any other cause outside the reasonable direct control of the City.

Sec. 80-62. Unlawful connections.

Any person who shall cause, allow or make, any unauthorized connection in any manner to any utility facilities owned by the City, without the prior approval and consent of the City, shall be in violation of this chapter and subject to civil and criminal penalties as may be allowed by law, as well as civil suit for damages. The City Commission may by resolution establish a standard fee for responding to and correcting unlawful connections as an alternative to seeking seeking civil damages.

Sec. 80-63. Tampering with facilities.

(a) Damage to equipment; trespassing. It shall be unlawful for any person, not having written authority to do so:

(1) To operate any meter valves, or water hydrant, or tamper with any utility facilities or system of the City.

(2) To in any way alter, molest, damage, or trespass upon or take or convert to his own, or to some other person, any utility service or any equipment or premises belonging to the City and connected with any City utility service.

Sec. 80-64. Unauthorized use. Any person approved for utility service and utilizing or connected to the utility system, or any person having a permit from the City for the use of any utility service offered by the City, who shall use such utility service for any purpose other than as approved or authorized by the City or the permit, or who shall make any unauthorized changes in such service, shall be in violation of this chapter.

Sec. 80-65. Temporary interruption of service.

The City reserves the right to interrupt, discontinue or cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, the City will make a reasonable attempt to notify affected customers as reason and circumstances permit, however, failure to so notify shall not be a basis for City liability.

Sec. 80-66. Customer maintenance of single-service facilities.

The customer shall be responsible for the operation and maintenance of all on-site and off-site utility facilities not specifically accepted by the City for operation and maintenance. Such duties shall include, but are not limited to, the operation and maintenance of all plumbing and other facilities on the customer's side of a master meter; and ensuring that all water mains and services do not leak excessively according to industry standards.

Secs. 80-67—80-100. - Reserved

DIVISION ~~3~~ 11, Conservation.

Sec. 80-101 ~~71~~. Definitions. For the purpose of this division, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

District means the Southwest Florida Water Management District.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Water Resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground.

Water shortage condition means when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage plan means chapter 40D-21, Florida Administrative Code, the codification of the water shortage plan adopted and published by the Southwest Florida Water Management District, or any modification or derivative of chapter 40D-21 which may be current at the time a water shortage or water shortage emergency is declared.

Sec. 80-~~72~~102. Application of division.

The provisions of this division shall apply to all persons using the water resource, whether from public or privately owned water utility systems, private wells or private connections with surface water bodies. This division shall not apply to persons using treated effluent.

Sec. 80-73103. - Enforcement of division.

Every law enforcement officer in their service areas governed by this division shall, in connection with all other duties imposed by law, diligently enforce the provisions of this division. In addition the city may also delegate enforcement responsibility for this division to agencies and departments in the service areas governed by this division, in accordance with state and local law. Enforcement of this division may be achieved through any lawful manner, including without limitation, code enforcement through Florida Statutes Chapter 162, injunction, civil and criminal complaint.

Sec. 80-74104. - Penalty for violation of division.

- (a) Violations of the provisions contained herein shall constitute a civil offense, and violators will be subject to the following penalties:
 - (1) First violation: \$25.
 - (2) Second and subsequent violations: fine not to exceed \$500 and/or imprisonment in the county jail not to exceed 60 days.
- (b) Each day in violation of this chapter shall constitute a separate offense. In the initial stages of a water shortage, law enforcement officials may attempt to provide violators with no more than one written warning.

Sec. 80-75105. - Users of water to conform to division provisions.

No water service shall be furnished to any person or utility unless such person or utility agrees to accept all the provisions of this division. The acceptance of water service or the withdrawal of water from a private source shall be in itself the acceptance of the provisions contained in this division.

Sec. 80-76106. - Declaration of water shortage or water shortage emergency.

The declaration of a water shortage or water shortage emergency affecting all or any part of the City by the governing board or the executive director of the District shall invoke the provisions of this division. Upon such declaration, all water use restrictions or other measures imposed by the district pursuant to chapter 40D-21, Florida Administrative Code, applicable to the city or any portion of the city, shall be subject to enforcement pursuant to section 80-73. Any violation of the provisions of chapter 40D-21 or any order issued pursuant thereto, shall be a violation of this division.

DIVISION 4 12. Wells

Sec. 80-107. Definitions

As used in this division, the following terms shall have the meanings indicated:

AVAILABLE -- Abutting, adjacent to or 200 feet or less from the property line of said lot, parcel or property.

PRIVATE WELL -- Any well dug for the purpose of providing the property referred to with water from the subsurface.

WATER FACILITIES AND LINES -- Underground lines originating from a central water supply operated within the City of San Antonio and carrying said water to the various parts of the City.

Sec. 80-76~~108~~108. In order to ensure the city and its inhabitants of receiving and having furnished to them an abundant supply of safe, good quality water, and to prevent the diminishment of the water supply to the city and city residents from the aquifer and underground streams, the drilling or digging of wells is prohibited within the city limits, subject to the following exceptions:

(1) ~~By residential users, if~~ the city water lines do not extend to the property in question ~~such that the mandatory connection policy provided in this chapter does not apply~~. In the event said water line becomes available, the property owner shall ~~abandon and properly cap their well, and connect to the city's water system in accordance with this chapter within 90 days' notice from the city to do so~~. This exception shall not apply to owners or developers of commercial properties, planned unit developments or subdivisions ~~approved after the effective date of this section~~ as said extension of lines shall be paid by the developer/owner as a condition of their approval.

(2) For bona fide agricultural purposes involving sales of agricultural products to third parties and subject to notice, application and affirmative vote by the city commission. This does not exempt commercial buildings associated with such argicultural activities from being required to connect pursuant to the City's mandatory connection policy.

(3) The drilling of wells by governmental agencies for parks and recreation and as necessary for the best interests of the citizens of the city. This does not exempt commercial buildings associated with such park and recreation activities from being required to connect pursuant to the City's mandatory connection policy.

(4) The drilling of monitoring wells for the purpose of testing ground or aquifer contamination.

(5) The drilling of a water well for use in conjunction with a water source heat pump, provided the water is returned to the same source in the aquifer by an injection well.

Sec. 80-97 ~~109~~. - Use of city water lines for private well water.

The use of city water lines for the flow of water from a private well is hereby prohibited.

Sec. 80-110. Plats and replats to contain water facilities.

No plat or replat of any subdivision of any lands located within the City shall be approved by the City Commission unless said plat provides for connection to City water Utility Facilities for the proposed improved sites.

Division ~~2~~13. Cross-Connection Control. [*Sections renumbered as necessary to fit Code*].

SECTION 3. CONFLICTS. All ordinances or parts of ordinances in express conflict with any of the provisions of this Ordinance are hereby repealed

SECTION 4. SEVERABILITY. If any word, sentence, clause, phrase, or provision of this Ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

SECTION 5. INCLUSION IN THE CODE. It is the intention of the City Commission, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the city. Section numbering and layout may be revised to fit the Code.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage.

This ordinance was read for the first time at the Regular Meeting of the City Commission on the ____ day of _____, 20__, when it was voted on by members of the City Commission as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Commissioner/Mayor Newlon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Bassinger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Thornberry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Stallworth	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The final reading was held on the ____ day of _____, at a regular special session of the City Commission, and this Ordinance was adopted rejected . The vote was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Commissioner/Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Bassinger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Markley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Thornberry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Stallworth	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST:

CITY OF SAN ANTONIO, FLORIDA

Laura Buzzone, City Clerk

Mark Anderson, Mayor

APPROVED AS TO FORM AND CORRECTNESS:

Gerald T. Buhr, City Attorney