

ORDINANCE NO. 031918

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN CITY, TEXAS ESTABLISHING A WATER SYSTEM UTILITY FOR THE CITY OF MOUNTAIN CITY AND ADOPTING RULES, REGULATIONS, RATES AND CHARGES FOR THE MOUNTAIN CITY WATER SYSTEM UTILITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mountain City is a Type A General Law city duly incorporated in 1984; and

WHEREAS, in accordance with Chapter 52 of the Texas Local Government Code the City is authorized to acquire, own and operate a water system for its residents in order to ensure an adequate and wholesome supply of water for its residents; and

WHEREAS, the City has acquired a water utility system and will henceforth be the owner and operator of a water utility system consisting of water wells, water supply lines and a distribution system capable of furnishing water services in the City and its designated service area; and

WHEREAS, the City Council has determined it necessary to establish rules and regulations for the provisions and delivery of water services to the City and its designated service area; and

WHEREAS, the City Council has determined it necessary to establish rates and charges for water services; and

WHEREAS, the City Council finds that such regulations of the water utility system are necessary for the health, safety and welfare of the City of Mountain City:

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MOUNTAIN CITY:

Section 1. Findings. The findings set out herein are found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes.

Section 2. Water Utility System. There is hereby established a municipally owned public water utility system, established for the purpose of furnishing a water supply for domestic residential use, business use, and general farm use in the City of Mountain City, the extraterritorial jurisdiction of the City of Mountain City, as well as areas outside the extra-territorial jurisdiction of the City of Mountain City where no Certificate of Convenience and Necessity is held by another water supply system. A water department is also established and shall be responsible for the management, maintenance, care, and operation of the water works system of the city.

Section 3. Use of Water System Restricted. No person shall make or use any water service installation connected to the city water system except pursuant to application and permit as

provided in the ordinance. No person shall make or use any such installation contrary to the regulatory provisions of this ordinance. Failure to comply with any provisions of this ordinance shall constitute ground for disconnection of water services.

Section 4. Definitions. Words, phrases and terms herein shall be given their usual and customary meaning except where the context clearly indicates a different meaning. Words expressed in the present tense include the future tense; singular words include the plural and the word shall is mandatory. Any office referred to by title means the person employed or appointed to and serving in that position, or that person's duly authorized representative. Definitions not prescribed herein are to be construed in accordance with customary usage in utility, plumbing and engineering practices.

Agent means any duly authorized employee, contractor or agent of the City.

Applicant means any person seeking water services from the City.

Bill means a periodic statement containing a list of charges due and payable. Also, referred to as billing statement.

Billing period means the time between regularly scheduled meter readings.

City means the City of Mountain City, Hays County, Texas.

City administrator means the duly appointed City Administrator or the administrator's authorized designee as approved by the council.

Customer means any individual, association, firm corporations, entity, political subdivision or governmental agency. Also, referred to as a person.

Meter means an instrument and appurtenances thereto used to measure water volume.

Premises means the property or building where city water services are installed.

Section 5. Application for Services.

- A. Procedure--Application for a water service installation and for water service shall be made to the city administrator or the administrator's designee on forms prescribed by the City Council, and furnished by the city. By applicant's signature, the applicant shall agree to conform to this ordinance and to rules and regulations that may be established by the city as conditions for the use of water.
- B. Fees or Deposit--Application for a service installation shall be made by the owner of the property to be served, the owner's agent or occupant of the premises. The applicant shall, at the time of making application, pay to the city the amount of the fees or deposit required for the installation of the service connection as provided in this ordinance. When a water service connection has been installed, application for water service may be made either by the owner or by the owner's agent or by the tenant or occupant of the premises.

Section 6. Rates and Charges.

- A. The City Council is empowered to establish water rates, water charges and special service rates as required. The rates and charges may be revised as determined by the City Council.
- B. The monthly connection fees, rates and charges for sales made or services rendered by the water utility system are hereby established, levied, fixed and prescribed by this ordinance. The following rates are applicable to all sales or service of water in the water utility's service area: See Appendix A.
- C. All fees imposed on the City's water utility system by an applicable water conservation district will be passed through to all of the city's water customers at the same rate that is imposed upon the city. The city staff shall add such charge to each customer's water bill and shall identify such fee in the customer's periodic statement as a direct pass-through charge in addition to all other water charges.

Section 7. Billing.

- A. All accounts shall be established in the name of the applicant. The applicant shall be liable for water supplied to the applicant's premises.
- B. All water that passes through the assigned meter shall be charged to the customer. Meters shall be read monthly.
 - C. All billing statements shall be considered rendered when delivered by the agreed upon method of delivery to the customer. The postmark on the bill or the recorded date of mailing by the utility if there is no postmark on the bill, constitutes proof of the date of issuance. Failure of the customer to receive any such bill shall in no way relieve the customer of the duty and obligation to pay for the services rendered.
- D. Statements for services rendered shall be delivered by the agreed upon method of delivery monthly and shall specify the water consumed and the water charges in accordance with the rates set out in this ordinance.
- E. Payments for water service are due on the 15th day of the month following the date service was provided. Payments not received by the city by the 15th day of the month are considered past due.
- F. A delinquent account for water service shall incur a late charge as provided for in this ordinance. Past-due payments that are made and do not include a penalty shall continue to be past due for collection purposes until the late charge is paid in full.
- G. Any delinquent water service account outstanding by the 20th of the month shall receive a past-due notice. The city shall forward the following notices as necessary:
 - 1) Current to 30 days past due, or any portion thereof. The payments are due on the 15th of the month following the month in which service was rendered. Accounts not paid in full by the 15th day of the month it is due will incur a \$5.00 late fee.

- 2) 31+ days past due, or any portion thereof (first disconnect notice). When the amount due would be equal to at least 2 monthly payments, a past-due/disconnect notice will be sent via U.S. mail on the 20th of each month. This notice will include the date of disconnect if the outstanding balance is not paid in full, together with late charges.
- 3) 31+ days past due, or any portion thereof (second notice). Five calendar days prior to the disconnect date, a final notice will be hung on the resident's door if all amounts due have not been paid in full.

Section 8. Fees.

The following fees will be assessed on delinquent accounts as appropriate:

- A. Late fee: As provided in Appendix A/chart to this ordinance.
- B. Reconnect fee: As provided in Appendix A to this ordinance.
- C. Deferment plan fee: As provided in Appendix A to this ordinance.
- D. Meter re-read: As provided in Appendix A to this ordinance.
- E. Transfer fee: As provided in Appendix A to this ordinance.

Section 9. Hardship cases.

- A. The city administrator or designee has sole discretion to approve or deny an extreme hardship application, but, in doing so, shall act in good faith and consider the following factors:
 - 1) The extent to which the circumstance leading to the nonpayment for the service was caused by factors beyond the control of the delinquent user;
 - 2) The financial resources available to the delinquent customer; and
 - 3) The likelihood that the customer will be able to perform his or her obligations under the deferred payment schedule in a timely manner.
- B. It shall be the burden of the delinquent customer to produce satisfactory evidence of the factors mentioned above.
- C. If the city administrator determines that the customer is subject to an extreme hardship, the city administrator may permit the delinquent customer to execute a deferred payment plan. It is the express will of the City Council that extreme hardship cases will be recognized only in the most unusual circumstances, and shall not become a refuge for most delinquent accounts.

Section 10. Deferred Payment Plan.

- A. It shall be stated that no more than one deferred payment plan may be accepted per customer per calendar year.
- B. If the city administrator grants a customer's request for a deferred payment plan, he/she shall require the customer to execute a written agreement that:

- 1) Requires the customer to pay for all future services before the account becomes delinquent;
 - 2) Provides up to, but no more than, 6 months to pay all delinquent amounts, in equal or as nearly equal as practicable monthly installments;
 - 3) Includes a potential deferred payment fee;
 - 4) Provides that, in the event of any default of the deferred payment plan, services shall be terminated without further notice.
- C. The city administrator may develop forms that are consistent with the purposes stated herein.

Section 11. Appeals.

- A. A customer whose account is deemed delinquent and is subject to disconnection of services may request an appeal hearing. A request for hearing must be made within seven days of the mailing of the delinquency notice.
- B. Disconnection of services is stayed pending a decision on the appeal.
- C. A hearing will set at the next available regularly scheduled City Council meeting, with notice of the hearing conveyed to customer by regular mail or electronic mail.
- D. The City Council shall issue a decision within three days of the hearing with written notice of the decision provided as soon as administratively possible after the decision is rendered.

Section 12. Liens for unpaid charges.

- A. Pursuant to chapter 402 of the Texas Local Government Code, there is hereby imposed a lien on each property that is served by the city's water system to secure the payment of delinquent municipal utility accounts. This lien does not attach to property that is a homestead protected by the state constitution, nor does it secure the payment of any municipal utility bills that were incurred by a tenant of the property prior to the effective date of this ordinance.
- B. The Mayor or the Mayor's designee shall perfect the city's lien by recording a notice in the real property records of the county that includes:
 - 1) The name of the owner of the property;
 - 2) The name of the person who received the service, if different than the owner;
 - 3) The legal description of the property;
 - 4) The amount owed to the city, including penalty, interest and collection costs; and
 - 5) The type of service for which payment is delinquent.
- C. The city's lien shall be inferior to a bona fide mortgage lien that is recorded prior to the date the city's lien is recorded in the real property records of the county, but shall be superior to all other liens, including previously recorded judgment liens and all liens recorded after the city's lien.

Section 13. Water connections and extensions.

- A. The City shall supply water to its customers through mains/lines owned or controlled by the City.
- B. Every premise connected with or to a city water main or line shall have a separate service connection and meter.
- C. It shall be unlawful and subject to the violation provisions of this Ordinance for any person, other than an agent of the City, to tap any water main, make connection with mains or extend service pipes from the main to the meter or to place a stop cock and stop box at that point.
- D. The City will make all repairs and renewals of water service pipes from the main to the meter and it shall be unlawful for any person, other than an agent of the City to repair or renew any such service pipe from the main to the meter.
- E. The water connection fees set forth in appendix A apply only when the connection is made to a location within two hundred (200) feet of an existing main or service line or where a road cut or bore is not required. In any other case, the party requesting service shall be required to pay an additional fee equal to the time and materials costs incurred by the city in making the connection.
- F. The city administrator or designee shall estimate the total connection fee and inform the applicant of the estimate. The applicant shall pay the estimated fee before work commences. When the connection has been completed, the actual cost will be determined and the actual fee will be calculated and any amount due will be collected before service is provided. Any overpayment will be promptly refunded.

Section 14. Cross-connection control.

- A. No water service connection shall be made to any establishment where a potential or actual contamination hazard exists unless the water supply is protected in accordance with the state commission on environmental quality rules and regulations for public water systems (TCEQ rules) and this article. Water service shall be discontinued by the water purveyor if a required backflow prevention assembly is not installed, maintained and tested in accordance with the TCEQ rules and this article.
- B. No water connection from any public drinking water supply system shall be connected to any condensing, cooling, or industrial process or any other system of nonpotable usage over which the public water supply system officials do not have sanitary control. The purpose of a cross-connection control program is to promote the public health, safety, and welfare by regulations designed to:
 - 1) Protect the public potable water supply of the city from the possibility of contamination or pollution by isolating within a customer's internal distribution systems or a customer's private water systems contaminants or pollutants that could backflow into the public water system.

- 2) Promote the elimination or control of existing cross connections, whether actual or potential, between a customer's in plant potable water system(s) and nonpotable water system(s), plumbing fixtures, and industrial piping system(s).
- 3) Provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the city's potable water system.
- 4) Comply with title 30 Texas Administrative Code (30 TAC) chapter 290, subchapter D: Rules and Regulations for Public Water Systems.

Section 15. Backflow prevention assembly.

- A. The backflow prevention assembly protection which is required under this ordinance shall be any of the duly nationally recognized and authorized backflow prevention assemblies listed in a state-approved plumbing code or as determined by the city. Each backflow prevention assembly must have been approved by the city prior to installation. Failure to obtain such approval prior to installation of the backflow prevention assembly may result in the backflow prevention assembly failing to meet the final approval by the city. The city shall determine the type and location of backflow assembly to be installed within the area serviced by the city.
- B. All new and existing fire protection systems which utilize the city's potable water supply shall have installed an approved backflow prevention device according to the degree of hazard.
- C. Any irrigation system that is connected to a public or private potable water supply must be connected through a TCEQ approved backflow prevention method. The backflow prevention device must be approved by plumbing code or as determined by the city.
- D. No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless the other water supply is of a safe, sanitary quality and the interconnection is approved by the City.
- E. A residential premise that has been determined to have an actual or potential cross connection shall be equipped with an approved backflow prevention assembly installed in accordance with this article. This device can be required to be installed either at the customer meter or at the point of use at the expense of the owner/occupant and shall conform to the device testing requirements as provided in this ordinance.
- F. No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless the other water supply is of a safe, sanitary quality and the interconnection is approved by the managing director.
- G. The City may contract for services as needed for a backflow assembly tester or related services necessary to ensure compliance with local and state law.

Section 16. Customer duties.

- A. An agent of the City may, at all reasonable hours, enter any private premises for the purpose of inspecting water connections, meters, plumbing, and appurtenances to assure compliance with this or other applicable laws, regulations and ordinances.
- B. The customer shall be responsible for maintaining the service pipe from the meter to the building served.
- C. When necessary, customer shall provide a permanent recorded public utility easement on and across customer's real property sufficient to provide service to that customer.
- D. Customer must provide a completed customer service inspection certificate form to the City of Mountain City, TCEQ Form 20699, prior to having continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. The inspection and completed form must be in compliance with **Texas Administrative Code 290.46(j) Customer service inspections**. Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification.
 - a. Plumbing Inspectors and Water Supply Protection Specialists licensed by the Texas State Board of Plumbing Examiners (TSBPE).
 - b. Customer service inspectors who have completed a TCEQ commission-approved course, passed an examination administered by the executive director, and hold current professional license as a customer service inspector.

Section 17. Customer disputes.

- A. If a customer believes that a bill for a past service period is excessive, the customer may have the meter reread. If, based on the meter reread, it is determined that the prior billing was incorrect, the City shall adjust the billing. Such adjustment shall not extend back more than one service period from the date of the request.
- B. If the customer remains dissatisfied, upon payment of the meter testing fee, the City shall have the meter tested. If the test shows an error in the city's favor, an accurate meter shall be installed, and the bill shall be adjusted accordingly and the meter testing fee will be reimbursed. Such adjustment shall not extend back more than one service period from the date of the written request.
- C. A customer may advise a utility that a bill is in dispute by written notice or in person during normal business hours. A dispute must be registered with the utility and a payment equal to the customer's average monthly usage at current rates must be received by the utility prior to the date of proposed discontinuance for a customer to avoid discontinuance of service as provided by Texas Administrative Code §291.88.
- D. Notwithstanding any other section of this chapter, the customer may not be required to pay the disputed portion of a bill that exceeds the amount of that customer's average monthly

usage at current rates pending the completion of the determination of the dispute. For purposes of this section only, the customer's average monthly usage will be the average of the customer's usage for the usage history the city has for up to but not exceeding the preceding 12-month period. Where no previous usage history exists, consumption for calculating the average monthly usage will be estimated on the basis of usage levels of similar customers under similar conditions.

- E. Notwithstanding any other section of this chapter, a utility customer's service may not be subject to discontinuance for nonpayment of that portion of a bill under dispute pending the completion of the determination of the dispute. The customer is obligated to pay any billings not disputed as established in Texas Administrative Code §291.88.

Section 18. Restricted use.

- A. City has an obligation to Barton Springs Edwards Aquifer Conservation District (BSEACD) for following their Drought Contingency Plan. Whenever the City Council determines that a shortage of water supply threatens the city, it may, by ordinance of the Council, limit the times and hours during which city water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses. After publication of the ordinance, no person shall use, or permit water to be used, in violation of the ordinance, and any customer who does so shall be charged a fee set by order of the council for each day of violation and the charge shall be added to his next water bill.
- B. If the emergency requires immediate compliance with terms of the ordinance, the council may provide for the delivery of a copy of the ordinance to the premises of each customer, and any customer who has received such notice and thereafter uses or permits water to be used in violation of the resolution shall be subject to the charge provided above. Continued violation shall be cause for discontinuance of water service.

Section 19. Violations and penalty.

Any person who shall violate any of the provisions of this ordinance or fail to comply with any of the provisions contained herein, shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not exceeding five hundred dollars (\$500.00). Each and every day's violation shall constitute a separate and distinct offense.

Section 20. Cumulative and savings.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Mountain City, Texas, except where the provisions of the ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section 21. Severability.

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

Section 22. Effective date.

This ordinance shall become effective upon purchase of the water system from Mountain City Oaks Water System, approval and publication as provided by law.

PASSED AND APPROVED ON this _____ day of _____, 2018.

Phillip Taylor, Mayor

ATTEST:

Ellis Craig, City Secretary

Appendix A

Mountain City Water Rates and Fees Chart

Monthly Base Rate (5/8" meter)	\$ 29.55
Gallonage Charge:	
0 - 10,000 gallons	\$ 2.75 per 1000 gallons
10,001 - 20,000 gallons	\$ 3.00 per 1000 gallons
20,001- 30,000 gallons	\$ 3.50 per 1000 gallons
30,000 + gallons	\$ 4.00 per 1000 gallons
Meter Tap Fee	\$500.00
New Customer Connect Fee	\$ 50.00
Reconnection Fee	\$ 25.00
Late Charge	\$ 5.00
Return Check Charge	\$ 30.00
Customer Deposit – Residential	\$50.00
Note: Applicants 65 years of age or older. No deposit may be required of a residential service applicant who is 65 years of age or older if the applicant does not have a delinquent account balance with the utility or another water utility. Proof of age required. Customer deposits will be credited to the customer's account after 12 months of timely payments.	
Meter Test Fee	\$25.00

There is a \$ 0.20 per 1000 gallon charge from Barton Springs Edwards Aquifer Conservation District (BSEACD) that will be itemized on each customer's account. This fee is subject to be changed by BSEACD and automatically passed through to customers.