

ARTICLE 11.300 WATER SERVICE TO NON-RESIDENTS

Sec. 11.301 Title

This article shall be known as the “Water Ordinance for Non-Residents of the City of Abernathy, Texas.” (1974 Code, Chapter 14, Article 2, Section 14-26)

Sec. 11.302 Purpose

The purpose of this article is to provide the terms and conditions for the furnishing, by the City of Abernathy, Texas, to non-residents of the City of Abernathy, Texas, water for domestic use of such non-residents. (1974 Code, Chapter 14, Article 2, Section 14-27)

Sec. 11.303 Definitions

For the purpose of this article, certain words and phrases used herein are defined as follows:

City Council. The city council of the City of Abernathy, Texas.

City. The City of Abernathy, Texas.

Resident or Inhabitant. A person residing within the City of Abernathy, Texas.

Non-Resident or Non-Inhabitant. A person residing outside of the city limits of the City of Abernathy, Texas.

Consumer. A non-resident or non-inhabitant user of water furnished by the City of Abernathy, Texas.

Excess Water. Water of the City of Abernathy, Texas, over that necessary from time to time to adequately supply the residents and inhabitants of the City of Abernathy, Texas.

City Attorney. The city attorney for the City of Abernathy, Texas.

Water Distribution System. The system of meters, pipes, fittings, etc. required to take water from the water mains of the City of Abernathy to the consumers.

(1974 Code, Chapter 14, Article 2, Section 14-28)

Sec. 11.304 Furnishing of Water

City will, subject to availability of excess water, furnish to non-residents and non-inhabitants of city, water for domestic use only, under the terms and provisions of this article or any amendments hereto, subject at all times, however, to the right of city to discontinue the furnishing of such water to nonresidents and non-inhabitants of city. (1974 Code, Chapter 14, Article 2, Section 14-29)

Sec. 11.305 Non-Resident Water User Agreement

Before city will furnish water to any non-resident such non-resident will execute a “Non-Resident Water User Agreement” containing such terms and being in such form as may be prescribed from time to time by the city council. (1974 Code, Chapter 14, Article 2, Section 14-30)

Sec. 11.306 Costs of Water Distribution System

Non-resident users are required to pay to the city a tapping fee as provided for in the fee schedule found in the appendix of this code. Additionally, non-resident users shall pay all costs of constructing a water distribution system extending from the water mains of city to the points of use, with such costs to include,

but not be limited to, costs of individual meters, water taps, all supplies of every kind and character, all labor involved, master meters, installation fees and all other costs and expenses of similar nature, either required, necessary or convenient in extending service to such non-resident users. (Ordinance 380 adopted 3/11/96)

Sec. 11.307 Deposit of Construction Costs

The engineer designated by the city council or water superintendent of city shall lay out the water distribution system for non-resident users beginning at the city mains and shall estimate the cost of construction of such systems. The non-resident users shall deposit with city this estimated cost. Such estimated cost will include all engineering fees. City will advertise for bids, award all contracts for construction of water distribution systems provided for herein, supervise construction and pay contractor or contractors from funds deposited by such non-resident users. If the engineer's estimate is too low, the non-resident users will, upon demand of city, by its duly authorized officials, deposit the difference required. Any funds left over after completion of construction of the water distribution systems and the purchase and installation of all meters, fittings, valves, risers, etc. required, will be refunded to such non-resident users. Costs shall include reasonable charges for time of water superintendent in design and supervision. (1974 Code, Chapter 14, Article 2, Section 14-32)

Sec. 11.308 Easements

City shall be furnished with easements satisfactory to the city attorney covering all property upon which the water distribution systems are to be installed. (1974 Code, Chapter 14, Article 2, Section 14-33)

Sec. 11.309 Private Water Systems

Prior to connecting a consumer to any water distribution systems, such consumer shall disconnect his private water supply, so that there will be no cross connection between the two water supplies. City shall have the right to inspect the premises of such consumer to see that this provision is complied with and shall have the right of ingress and egress at all times for this purpose. (1974 Code, Chapter 14, Article 2, Section 14-34)

Sec. 11.310 Maintenance

Maintenance of the water distribution system shall be at the expense of the consumers connected to such water distribution systems. City may require, prior to performing such maintenance, that such consumers deposit with city a sum sufficient to cover estimated costs of repairs and maintenance, or in the event no deposit is required by city, such consumers shall pay city upon completion of such maintenance and repairs the costs of same. (1974 Code, Chapter 14, Article 2, Section 14-35)

Sec. 11.311 Payment of Charges

All charges for water use, all charges for maintenance and repairs, shall be paid to city at city hall in city. (1974 Code, Chapter 14, Article 2, Section 14-36)

Sec. 11.312 Master Meters

Where one individual meter, but not in excess of ten individual meters, are installed on any water distribution system, a two-inch master meter shall be installed on such line. Where there are more than ten individual meters installed on such water distribution system, a three-inch master meter shall be installed. In determining the deposit to be made by consumers for construction of the water distribution system, the costs of the master meter shall be prorated among those who will have individual connections to such system. No more than ten individual meters shall ever be connected to a water distribution system having only a two-inch master meter. In the event, after initial construction of the water distribution system, additional connections are desired by non-inhabitants, they shall file application with the city and execute the "Non-Resident Water User Agreement." Such persons desiring to make connections to a water

distribution system after construction of same, shall in addition to other costs, pay a pro rata portion of the master meter originally installed, which city shall refund to the original consumers connected to the system as originally constructed. (1974 Code, Chapter 14, Article 2, Section 14-37)

Sec. 11.313 Reading of Meters

City shall read the master meter and the individual meters on such water distribution system at regular monthly intervals and shall render a monthly bill to each consumer for the quantity of water determined in accordance with the provisions of Section 11.314 hereof. (1974 Code, Chapter 14, Article 2, Section 14-38)

Sec. 11.314 Leakage Water

The quantity of water billed monthly to each consumer shall be the consumption registered by his individual meter plus an equal share of "leakage water", if any. "Leakage water" shall be the difference between the cumulative total consumption of all individual meters on any one water distribution system and the consumption recorded by the master meter. "Equal share" shall be the total "leakage water" divided by the number of individual meters on such water distribution system regardless of whether or not such individual meter registered any consumption. Each consumer shall pay for water as determined by this section at the rate and in accordance with the terms and conditions of this article. (1974 Code, Chapter 14, Article 2, Section 14-39)

Sec. 11.315 Water Rates

Water rates to be charged consumers shall be as provided for in the fee schedule found in the appendix of this code. (1974 Code, Chapter 14, Article 2, Section 14-40)

Sec. 11.316 Discontinuance of Water to Consumers

City shall only furnish water to non-residents and non-inhabitants to the extent it may have water in excess of that required from time to time by inhabitants of city. Water furnished under the provisions of this article to consumers shall be subject to curtailment or interruption or termination at any time, on any one or more water distribution systems when, in the sole judgment of city, such curtailment, interruption or termination, regardless of cause, is necessary to maintain sufficient water to furnish to inhabitants of city. City shall be the sole and exclusive judge as to the necessity or desirability of cutting off, interrupting or reducing the supply of water furnished consumers from time to time and as to which consumers shall have their water supply cut off, interrupted or reduced, and the exercise of this right by city or the restoration of service shall not be the basis of any claims for damage sustained by any consumer. In non-emergency situations, adequate notice of the intended cut-off shall be provided to affected consumers. (1974 Code, Chapter 14, Article 2, Section 14-41; Ordinance adopting Code)

Sec. 11.317 Failure to Pay Charges

Failure by any consumer to pay for water furnished or to pay maintenance or repair charges or any other sums due city under the provisions of this article, shall entitle city to disconnect such consumer's water. City shall further have the right in such event, to disconnect the water distribution system serving such consumer at the master meter until such delinquent charges are paid. (1974 Code, Chapter 14, Article 2, Section 14-42)

Sec. 11.318 Responsibility for Maintenance

The repairing or maintenance of the water distribution systems shall be the responsibility of the consumers connected to such system and no liability shall exist on city for failure to maintain or repair, even though city will, to the extent it has available personnel, maintain such water distribution system. In the event city does not maintain nor repair such water distribution system (and city is not obligated to do so), the consumers connected to such system will repair and maintain same in accordance with standards set by the proper officials of the city. (1974 Code, Chapter 14, Article 2, Section 14-43)

Sec. 11.319 Indemnity Agreement

Title to water shall pass to consumers at the outlet side of the master meter and consumers shall be liable for all loss, if any, and damage occasioned by, or in any manner resulting from the use and transmission of such water in their water distribution system. Consumers agree and assume full liability for any injuries or damages and each agree, jointly and severally, to hold city harmless for any such injury, damage or loss to persons or property which may result. (1974 Code, Chapter 14, Article 2, Section 14-44)

Sec. 11.320 Master Meter Readings to be Conclusive

Water supplied hereunder, shall be supplied through the master meter set by city at a point to be mutually agreed upon and at which point city shall be furnished with a license or permit to set such master meter, if such is required. The quantity of water delivered hereunder shall be ascertained by the measurement of such master meter and the quantity recorded thereby, computed by city according to its standard operating practice, shall be conclusive upon both city and consumers, except if such master meter is found defective or ceases to register, in which cases, until repaired or replaced, the quantity of water delivered shall be ascertained by correcting the error, if the percentage of error is ascertainable by calibration test or mathematical calculations. If not so ascertainable, then it should be determined by estimating the quantity on a basis of deliveries during a preceding period under similar conditions when the meter was registering accurately. The measuring equipment installed by city shall be accurate at the time of installation and the accuracy thereof shall be verified by tests by city at reasonable intervals thereafter or upon consumer's request, provided that if requested by a consumer, he shall pay a service fee as provided for in the fee schedule found in the appendix of this code. Such provisions as to inspection and verification by city on its own initiative or at request of a consumer as to individual meters shall be upon the same basis and fees. (1974 Code, Chapter 14, Article 2, Section 14-45)

Sec. 11.321 Prevention of Waste

Consumer shall use due care to prevent any waste of water and agrees to assume and become liable for all loss and damage caused by failure, deficiency or leakage of water. (1974 Code, Chapter 14, Article 2, Section 14-46)

Sec. 11.322 Right of Access

City, its officers, agents, employees, or accredited representatives shall at all reasonable hours have free access to the premises of consumer for the purpose of reading meters, stopping leaks, examining pipes, connections and fittings and the use made of the water by consumer. All easements required hereunder to city shall contain similar provisions. (1974 Code, Chapter 14, Article 2, Section 14-47)

Sec. 11.323 Use of Water

The water supplied hereunder is for the use of consumer alone, who agrees not to pipe the same off the premises or furnish or sell same to any other consumer or person whomsoever. (1974 Code, Chapter 14, Article 2, Section 14-48)

Sec. 11.324 Termination of Service

City shall not be liable for damages for failure to deliver water, whether such failure results from natural causes, accidents or any other cause beyond the power and control of city. City may immediately cut off all water to any consumer or any group of consumers or to any water distribution system for any of the following reasons:

- (1) For repairs.
- (2) For shortage or failure of water.

- (3) For fraudulent representation in relation to use of water or the amount consumed.
- (4) Removal of consumer from the premises served.
- (5) Discontinuance of the use of water on the premises.
- (6) Non-payment, when due, of any bill for water, maintenance charges or any other charges provided for hereunder or under the terms of the "Non-Resident Water User Agreement".
- (7) Violation of any part of this article or of the "Non-Resident Water User Agreement".
- (8) For reason of change by city in its non-resident user water policy.

(1974 Code, Chapter 14, Article 2, Section 14-49)

Sec. 11.325 Guaranties of Payment

Before any consumer may have water service from the city water works he must deposit with the city water works an amount as provided for in the fee schedule found in the appendix of this code. Said deposit shall be refunded to the depositor when he shall have discontinued the use of the city water and shall have all bills and accounts due the city water works for any account whatever connected with the water service, and shall return receipt. If the receipt is not returned, then the records on books of the city water works shall be basis of adjustment. This deposit is required and made in the nature of a guarantee for payment of water service accounts, and damage to service connections or meters caused through neglect, abuse or failure to properly care for the same by the consumer or his agent, and the said deposit or any part thereof may be applied by the city water works to the payment of any such account when it becomes past due. This deposit shall not be made nor accepted in the nature of a payment, but only as a guarantee. Failure to pay the water bill before it becomes delinquent is considered notice from consumer to discontinue service and apply so much of the deposit as is necessary for the payment of the then past due account. In case any deposit or any part thereof shall have been applied in payment of past due accounts, no service may be re-established until the deposit shall have been brought back up to the full amount required. (Ordinance 376, adopted 11/13/95, Section 1(A))

Sec. 11.326 Representations by City

No agent, officer, employee, elected official or representative of city has authority to make any promise, agreement or representation, not incorporated in this article or in the "Non-Resident Water User Agreement", and any such promise, agreement or representation not incorporated in this article or in such "Non-Resident Water User Agreement" shall not bind city. (1974 Code, Chapter 14, Article 2, Section 14-51)

Sec. 11.327 Change in Rates

The rates charged for water furnished hereunder are subject to change at any time by amendment of this article without notice to consumer. (1974 Code, Chapter 14, Article 2, Section 14-52)

Sec. 11.328 Termination by Consumer

Consumer may, in the event he does not desire to continue to receive water, terminate his right to receive water by giving 30 days' written notice to city and the other consumers on such water distribution system and by paying city for all bills incurred as of the date of termination. Termination by a consumer shall not be a termination by other consumers connected to the water distribution system to which the terminating consumer is connected. (1974 Code, Chapter 14, Article 2, Section 14-53)

Sec. 11.329 Termination in Event of Use For Non-Domestic Purposes

All water supplied under the provision of this article, is for domestic purposes only and in the event consumer uses water for any purpose other than domestic purposes, his rights to use water may be curtailed, discontinued or terminated by city. (1974 Code, Chapter 14, Article 2, Section 14-54)

Sec. 11.330 Right to Refuse Service

City has the right to refuse service or to refuse increased service to any consumer in sole judgment and discretion of city. (1974 Code, Chapter 14, Article 2, Section 14-55)