

**ORDINANCE NO. 220-12**

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**An Ordinance of the City Council of the City of Pearland, Texas, amending Chapter 30, Utilities, Article I, *IN GENERAL*, and Article II, *RATES AND CHARGES*, of the code of ordinances; providing a penalty for violation; containing a savings clause and a severability clause; providing for codification, publication, and an effective date.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That Chapter 30, Article I, *IN GENERAL*, of the City of Pearland Code of Ordinances, is hereby amended in its entirety to read as follows:

**“ARTICLE I. - IN GENERAL**

**Sec. 30-1. - Definition.**

For the purposes of this chapter the word "utility" shall be construed to mean and include water, sewer, garbage and trash collection and/or any other utility service furnished by the city to consumers thereof.

**Sec. 30-2. - Scope of provisions.**

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the city shall furnish any utility service to any person, or whereby the city shall make any utility connections or perform any work of any kind in connection with the furnishing of any utility service pursuant to the rules and regulations of the city council.

**Sec. 30-3. - Service to comply with technical provisions.**

Any utility service furnished under the provisions of this chapter shall be in accordance with and in compliance with all applicable technical provisions of this Code, state law and city ordinances, rules and regulations.

**Sec. 30-4. - Rules, regulations.**

The city council shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the city within or without the city and under the management of the council. Such rules, regulations, standards and specifications shall be filed in the office of the city secretary. Violation of such rules, regulations, standards and specifications shall be deemed a misdemeanor.

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### **Sec. 30-5. - Inspection outside city.**

In order to protect the utility service supply, the city will not make any water or sewer taps or connections outside the city limits until the premises involved have been inspected and approved by the plumbing inspector.

### **Sec. 30-6. - Right of entry.**

Any authorized inspector of the city shall have free access at any time to all premises supplied with any utility service by the city for the purpose of inspection to protect the utility services from abusive use.

### **Sec. 30-7. - Termination of service authorized.**

The city shall have the right to disconnect or refuse to connect or reconnect any utility service for any of the following reasons:

- (a) Failure to meet the applicable provisions of law;
- (b) Violation of the rules and regulations pertaining to utility service;
- (c) Nonpayment of bills;
- (d) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise;
- (e) Molesting any meter, seal or other equipment controlling or regulating the supply of utility service;
- (f) Theft or diversion and/or use of service without payment therefor;
- (g) Vacancy of premises. All nonemergency disconnections effected without the customer's consent shall comply with the procedures set forth in section 30-24.

### **Sec. 30-8. - Liability of city for damage.**

The city shall not be liable for any damage by a customer of any utility service furnished by the city due to backflow of the sewerage system, failure of supply, interruption of service or any other cause outside the direct control of the city.

### **Sec. 30-9. - Utility service—Application required.**

Any person desiring any utility service furnished by the city shall make application for the same to the city. Such application shall contain the applicant's name, address, social security number, driver's license number and the intended use(s) for which the utility service is being requested. Applicants shall provide a valid Texas driver's license with photograph or a valid identification card with photo issued by the Texas Department of Public Safety, or two (2) valid verifiable forms of identification. In accordance with federal regulations, applicants shall provide evidence of the right to occupy a specific service address. Acceptable forms of evidence of the right to occupy may include, but not be limited to, copies of closing papers for purchasers of houses or copies of

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lease/rental agreements for renters. Applicants for non-residential service shall be required to show proof of authority to contract for the entity requesting service.

### **Sec. 30-10. - Same—Denial of service.**

The city may decline to initiate utility service to any applicant if:

- (a) The applicant is indebted to the city for any reason, except ad valorem taxes and special assessments.
- (b) The applicant's property or condition of existing equipment is potentially hazardous or in a condition that prevents the city from providing satisfactory service.
- (c) The applicant fails to meet all application requirements, or the information provided on the application is false.

### **Sec. 30-11. - Same—Permit.**

Approval of the application for any utility billing staff shall be deemed permission for such service.

### **Sec. 30-12. - Same—Use assumed.**

All premises connected to any utility service of the city shall be assumed to be using such utility service and the owner or occupant shall be charged for service so long as such premises shall remain connected with the utility service.

### **Sec. 30-13. - Not to use contrary to permit.**

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 mentioned in such permit or who shall make any unauthorized changes in such service shall be deemed guilty of a misdemeanor.

### **Sec. 30-14. - Damage, trespass of equipment.**

It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any utility service furnished by the city to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the city connected with any utility service. Any repair or replacement expense resulting from damage caused in violation of this section shall be assessed against the person or persons responsible for the damage.

### **Sec. 30-15. - Temporary interruption of service.**

The city reserves the right to 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, affected customers will be notified as circumstances permit.

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### **Sec. 30-16. - Restricting use.**

The city hereby reserves the right to at any time restrict or prevent the use of any utility service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of use.

### **Sec. 30-17. - Sale of service by customer.**

It shall be unlawful for any person to resell to others any utility service obtained from the city except only by special arrangement with the city council.

### **Sec. 30-18. - Connections to service.**

Connections for any utility service furnished by the city shall be made only under the supervision of the utility billing staff.

### **Sec. 30-19. - Separate connections.**

Every building, structure or consumer in the city shall have a separate utility service connection.

### **Sec. 30-20. - Unlawful connections.**

Any person who shall make any connection in any manner to any utility system, whether owned by the city or not, without the prior knowledge and consent of the owner of such utility system shall be deemed guilty of a misdemeanor. Any person found in violation of this section shall be responsible for all water illegally obtained. Water charge estimates shall be made by the city's water department and shall be based on an average month of the previous year. If an estimate is not possible, then the amount assessed shall be the monthly minimum usage charge.

### **Sec. 30-21. - Unlawful use.**

No person, other than employees of the city, shall be authorized to connect, turn on, turn off or disconnect any utility service offered by the city, or remove, replace or repair any equipment connected to any such utility service.

### **Sec. 30-22. - Maintenance of system by consumer.**

The consumer of any utility service furnished by the city shall maintain and keep in good repair all connections, appliances and other apparatus installed and used in connection with such utility service.

### **Sec. 30-23. - Rebuttable presumption.**

There shall be a rebuttable presumption in prosecutions under this chapter that the owner of record of real property that is found to have received unmetered water as a result of an unlawful connection in violation of section 30-20 to have tampered with equipment in violation of section 30-14 is responsible for the unlawful connection or the tampering with equipment.

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### **Sec. 30-24. - Termination procedures.**

(a) *Nonemergency termination.* When the city is authorized to terminate a customer's water services against that customer's consent and under the provisions of this subsection or when the city otherwise terminates water services to a customer in a nonemergency situation other than by the customer's request, the city shall first provide notice in the form and manner described below to the customer and afford the customer an opportunity for a hearing in the form and manner described herein before the termination of such services. If after the city has complied with the notice requirements as described below, the customer fails to request a hearing for review of the termination within the specified time, the city may terminate water services to the customer on the day specified in the notice to the customer or within five (5) calendar days thereafter. Any time elapsing after the declared termination date, the elapsing of which is due to the pendency of a hearing or the extension of time granted pursuant to a hearing, shall not be considered when calculating the five (5) days by which the city may terminate water service after a declared termination date.

(1) *Notice.* Notice shall be sent to a water customer at least eight (8) days prior to the proposed termination date of the services to that customer if notice is sent by mail, or at least five (5) days prior to termination if notice is delivered by the utility billing department. The notice may be incorporated into the customer's monthly bill, sent by United States mail letter, or hand delivered to the customer by a utility billing department employee or other person designated by the city to deliver such notices. The notice shall be written and clearly communicate the following information:

- a. The name of the customer whose service is proposed to be terminated;
- b. The address where service is proposed to be terminated;
- c. The reason for the proposed termination, including the amount of delinquency if nonpayment of charges is the reason for termination;
- d. The day after which the water service will be terminated unless the conditions bringing about the termination are sooner remedied;
  - e. That the customer has the right to appear and be heard at a hearing to contest the proposed termination prior to the date of termination if the customer believes that here is an error in the reason for the proposed termination, including, but not limited to, an error in the existence or amount of a delinquency;
- f. The means by which the customer may arrange for such a hearing;
- g. The date by which the customer must request and set the hearing in order to receive it, which deadline may be no earlier than one day prior to the termination date, nor may that deadline ever be sooner than five (5) days from the date of sending of notice, the five (5) days not including weekdays on which city offices are closed for holidays.

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(2) After the deadline for requesting a hearing has passed, a customer may submit request a hearing to review the decision to terminate the customer's water service within ten (10) days of the deadline upon presentation to the city manager of an affidavit declaring that the customer, through no fault of that customer, did not receive notice of termination in time to act upon the same. Once a hearing pursuant to this subsection has been requested, the city manager shall, as soon as practicable, decide whether the appeal appears to be meritorious, and if the city manager finds it is meritorious the city manager shall order the continuation or restoration of services pending the appeal. If the hearing officer finds in favor of the customer, the hearing officer may order restoration of service.

(3) If the customer to whom water service is proposed to be terminated is a landlord who supplies water services to tenant water users, the city shall attempt to give notice to the tenant water users pursuant to subsection (c) of this section.

(4) *Hearing.* Should any customer request a hearing to review the decision to terminate that customer's water services, the hearing shall be presided over by the city manager or any fair and neutral person he may appoint, which person must be of managerial employment and not involved in the original decision to terminate services, hereafter in this context known as the hearing officer. The hearing shall be held no sooner than the next business day nor later than fifteen (15) business days after being requested by the customer. The hearing officer may, in his discretion, delay or advance the hearing time upon showing of good cause by the customer. At the hearing, the customer shall be given the opportunity to be heard in person to present the customer's case, to present testimony from other persons, and to admit documents. The customer may be represented by counsel, though the city shall in no case provide counsel. The customer shall be given the opportunity to confront and cross examine any witnesses appearing against him at the hearing. The customer may request that a representative of the utility billing department be present at the hearing and be subject to questioning. However, the rules of evidence for civil or criminal trials need not be enforced. The city's reasons for terminating the customer's water service shall be stated at the hearing. Upon reaching a final decision, the hearing officer shall state his reasons for reaching that decision and state the evidence on which he relied in reaching those conclusions. Should the hearing officer find in favor of the customer, the customer's water service shall continue. Should the hearing officer find against the customer, the customer's water service shall be terminated. The hearing officer shall have the power to grant extensions, modify billings, and fashion other reliefs as would be equitable.

(b) *Emergency termination.* When the city is specifically authorized by this Code to act pursuant to this subsection or whenever the city shall deem it necessary due to an emergency situation to terminate a customer's water service prior to giving notice and an opportunity for a hearing, the city shall give the customer whose water service has been terminated notice of that termination according to the requirements described below and afford that customer an opportunity for a post-termination hearing to review the decision to terminate.

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- (1) *Notice.* Whenever the city shall terminate a customer's water service pursuant to this subsection, the city shall post notice on the door of the premises to which water service was terminated, if possible, and shall on that day send by mail letter notice to the customer at the customer's usual billing address. The notice shall be in writing and shall clearly communicate the following information:
- a. The name of the customer;
  - b. The address to which service has been terminated;
  - c. The reason for the termination;
  - d. The customer has the right to appear and be heard at a hearing to review the termination;
  - e. The customer must request the hearing for review of the termination within twenty (20) days of the termination;
  - f. The means by which the customer may request the hearing for review of the termination.

If the customer to whom water service has been terminated is a landlord who supplies water services to tenant water users, the city shall attempt to give notice to the tenant water users pursuant to the procedure set forth in subsection (c) of this section.

(2) If a customer shall request a hearing to review the prior termination of that customer's services, the request shall be made by the customer within twenty (20) days after termination and notice. Should the hearing officer find in favor of the customer, water service shall be reconnected. The hearing shall in all other respects, nature, procedures, and consequences be identical to that described in subsection (a)(2) of this section.

(c) *Notice to tenant users.* If a customer to whom water service is proposed to be terminated or has been terminated, pursuant to the foregoing provisions of this section, is a landlord who supplies water to tenant users, and the city is aware or should be aware that the customer supplies water to tenant users, then the city shall provide notice to the tenant users of the proposed termination or past termination. The notice to the tenant user need not state the name of that tenant user nor the name of the water customer but must communicate sufficient information to inform the tenant user that his premises is covered by the proposed or actual termination. The tenant user shall have the same rights to appeal that the customer of the water services has under the foregoing provisions of this section and shall be so informed by the notice. The notice to the tenant users shall in all other respects comply with the requirements of subsection (a)(1) of this section if water service is proposed to be terminated or with subsection (b)(1) of this section if services have already been terminated. Notices to tenant users may be sent by United States mail addressed to the appropriate street address of the dwelling or commercial unit or posted on the door of the dwelling or commercial unit, or hand delivered to the tenant or any other person residing at or employed at the tenant's premises. If the appropriate physical facilities are in place and

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the tenant otherwise meets the requirements of this chapter, the tenant user may establish water service in his own name without being held responsible for any delinquencies owed by the landlord.

### **Sec. 30-25. - Utility liens.**

#### **(a) Water.**

- (1) After the city has terminated a customer's water service pursuant to the requirements of section 30-24 of this chapter, or after the city terminates water service at a customer's request, the city's utility billing manager shall file a lien on the property which the terminated water service served and in the amount that the customer whose service was terminated owed to the city for water service at the time of the termination of services.
- (2) If a property receives water services illegally, without having an account with the city utility billing department, then the utility billing manager shall file a lien against that property in the amount of the proper charge for the water actually used, or, if there is no way of determining the amount of water used, in the amount of the minimum monthly water charge that would have been charged to that property had a legitimate account been opened there multiplied by the number of months during which that property illegally received such water services.

#### **(b) Garbage collection.**

- (1) After the city terminates a customer's water service pursuant to the requirements of section 30-24 of this chapter, or after the city terminates water service or garbage service at the customer's request, or after a customer without water service becomes more than fifty dollars (\$50.00) delinquent for garbage service alone, the city's utility billing manager shall file a lien on the property in the amount the customer, whose service was terminated, owed to the city for garbage collection service at the time of the termination of services.
- (2) If a property receives garbage collection services illegally, without establishing an account with the city utility billing department, then the utility billing manager shall file a lien against that property, in the amount of the minimum monthly garbage collection charge that would have been charged to that property had a legitimate account been opened, multiplied by the number of months during which that property illegally received such garbage collection services.

#### **(c) Sewerage.**

- (1) After the city has terminated a customer's water service pursuant to the requirements of section 30-24 of this chapter, or after the city terminates water service or sewer service at the customer's request, or after a customer without water service becomes more than fifty dollars (\$50.00) delinquent in payment for sewerage charges alone to the city, the city's utility billing manager shall file a lien on the property which the terminated water service served and in the amount that



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the customer whose service was terminated owed to the city for sewerage service at the time of the termination of services or the accumulation of the aforementioned delinquency in payment for sewerage services.

- (2) If a property receives sewerage services illegally, without establishing an account with the city utility billing department, then the utility billing manager shall file a lien against that property in the amount of the minimum monthly sewerage charge that would have been charged to that property, had a legitimate account been opened, multiplied by the number of months during which that property illegally received such sewerage services.

(d) *Exceptions.* If a customer owes less than fifty dollars (\$50.00) for the aggregate sum of water charges, garbage collection charges, and sewerage charges at the time of termination of any of those services, no lien shall be filed against the property served by those services. If the customer is not delinquent in payment at the time of termination of any of the services, no lien shall be filed until that customer becomes delinquent in payment. No lien shall be filed on any property that the city knows to be a homestead as defined by the Texas Constitution.

(e) *Filing of lien; interest; filing fees, etc.* Any lien authorized by this section shall be filed with the County Clerk of Brazoria County, Texas, or with the county clerk of the county in which the property to which the lien will be attached is located. The city shall then have a privileged lien on as many lots or pieces of property as the terminated services previously served and are described on the lien instrument by metes and bounds, or by city lot and block description, or by any other adequate description. The lien shall secure the charges made by the city to these above discussed services rendered to that property. Such a lien shall be filed pursuant to the authority granted under Texas law. The lien shall bear ten (10) percent per annum interest. The utility billing manager shall add to any lien filed pursuant to this section the amount of the filing fee charged by the county clerk for filing that lien. The lien shall be effective against that property if the account holder or user of services of that property was either the owner of that property, a tenant of that property or a permissive holder of that property, or an adverse possessor of that property. It is further provided that for any charges for which the lien authorized by this section is designed to secure, suit may be instituted and recovery in the foreclosure of that lien may be had in the name of the city. The city attorney is authorized to file such suits.

(f) *Notice and hearing.* After the filing of a lien pursuant to this section, the city secretary shall within thirty (30) days of the filing of that lien give the owner of the property and the account holder notice that such a lien or liens have been filed on that property and inform the owner and account holder of their rights of appeal. Within thirty (30) days of the post mark of the notice sent to the property owner or account holder, the property owner or account holder may appeal the decision to impose the lien on that property to the city manager or any fair and impartial person the city manager may designate. The city manager or his designee shall authorize the release of the lien if the property owner or account holder shows that no bill for the above mentioned services to his property encumbered by the lien or liens is owing, or if the property owner shows that the encumbered property is and at all times from the hour of the filing of the lien or liens until the time of the appeal has been a homestead as defined by the Texas Constitution. The city manager or his designee may modify or release the lien to reflect the true amount of delinquency in payment for services to the

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property if the owner or account holder demonstrates that a lesser bill is owing than the lien alleged or if the utility billing manager cannot show that all the lien alleged is owing. The person last listed on the Brazoria County tax records as being the owner of any given piece of property shall be presumed to be the owner for purposes of this subsection, and the address listed for the owner on the Brazoria County tax records shall be presumed to be the address of the owner.

(g) *Release of lien.* Whenever a person or entity pays all principal, interest, and the filing fee of a lien validly filed pursuant to this section, the city shall execute a release of that lien and surrender it to the paying party; except that the city shall not be responsible for filing release of lien.

(h) *Declaration of rental property.*

- (1) The owner of any property, which property is rented to another and such tenant carries city water, sewer, or garbage collection services in the tenant's name, may prevent the city from using that property as security for the water, sewer, and garbage.
- (2) When such a declaration has been filed with the city prior to the time the account holder begins to receive services, the city shall collect a deposit in the amount of two hundred dollars (\$200.00) if the property to receive services is a single family residence, or two thousand dollars (\$2,000.00) if the property to receive services is a business or commercial establishment. If a property owner wishes to make a declaration regarding the bill of a person or entity already receiving services at a particular property, that declaration shall not be effective until the posting of a deposit in the appropriate amounts as described above.
- (3) Paragraph (h)(2) of this subsection notwithstanding, an owner of property who files the above described declaration on property, which is rented to another and the tenant obtains city water, sewer, or garbage collection services in the tenant's name, then such declaration shall become immediately effective without the posting of a deposit in the amounts set forth in paragraph (h)(2). However, if water service is terminated to the tenant for a delinquency in payment, a deposit in the appropriate amount as described above shall be collected before such city water, sewer, or garbage collection service will be resumed. Any service account for water, sewer, or garbage collection service established after the passage of this section shall be subject to paragraphs (h)(1) and (2) above of this subsection.
- (4) The declaration of rental property shall be valid only so long as the person making such declaration owns such property, rents such property to another, and the tenant of such property carries city water, sewer, or garbage collection services in the tenant's name. The owner may revoke the declaration of rental property at any time by so notifying the city in writing.

**Sec. 30-26—30-33. Reserved.”**

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**Section 2.** That Chapter 30, Article II, *RATES AND CHARGES*, of the City of Pearland Code of Ordinances, is hereby amended in its entirety to read as follows:

### **“ARTICLE II.- RATES AND CHARGES**

#### **Sec. 30-34. - Meters.**

Meters for the measurement of utility services furnished by the city shall be furnished and installed by and shall remain the property of the city.

#### **Sec. 30-35. - Charges required.**

(a) Schedule of Deposits, Fees, and Charges.

The city council shall establish a separate non-development fee ordinance containing a schedule of deposits, fees, and charges for water and wastewater (and any other city-owned utility service). The schedule shall be on file in the office of the city secretary.

(b) Deposits.

(1) Application for service required. See Section 30-9.

(2) Deposits shall be required for all customers to be serviced unless the customer provides a good payment history with previous utility service. Good payment history shall be presumed where no more than three late fees are assessed in the previous twelve months supported by documentation that must be provided prior to the start of service. Deposits can be made in person at the Water Billing and Collections office located at the City Hall Annex, Public Safety Building, or by U.S. mail.

(3) The city's Chief Financial Officer, or their designee, shall have authority to increase or add a deposit on an existing account that has maintained poor payment history of three or more late fees assessed within a twelve-month period with the city.

(4) All paid deposits shall be applied to the final bill. Refunds of deposits made for utility service shall be made within 30 days of termination of such utility service and after payment of all indebtedness to the city for utility service. All unpaid balances may be forwarded to a collection agency for pursuit of payment or applied to customer's active account.

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- (5) Temporary service for major construction shall require a deposit for meter and fittings. The city will install and lock the meter in place. If the meter is damaged or moved by anyone other than an authorized City employee, the deposit shall be forfeited. A Monthly Rental fee shall be applicable to each account, and water usage shall be charged to each account, except for City projects. In the event water is sold to building or construction firms from fire hydrants, a Temporary Fire Hydrant Location Change fee shall be charged for each trip by city personnel to facilitate the water connection.
- (6) Customers maintaining an active account and requiring service at another location may, with a history of twelve consecutive months of on time payments for a minimum of one year at the original account address, obtain additional service without making an additional deposit.
- (7) Temporary water service, up to 2,000 gallons for residential landlords / property managers for maximum of ten (10) days, is available at full cost which shall include fees to temporarily connect and disconnect. In the event more time is required, a new account must be established. In the event more than 2,000 gallons is used, the city retains the right to assess all applicable fees and charges.

### (c) Fees.

- (1) *Processing Fee.* If utility service is disconnected for non-payment, a customer shall be entitled to reconnection of service upon the payment of any past due amount in addition to payment of a processing fee.
- (2) *After Hour Fee.* An after-hour fee shall be charged for resumption of utility service performed after business hours.
- (3) *Meter Apparatus Fee.* Utility customers shall be charged a fee when a meter, or a meter apparatus part, is determined to be broken, damaged or missing.
- (4) *Tapping charges.* The tapping charges for connection with city water mains and laterals and with the city sanitary sewer system shall be the actual cost of installation plus the meter cost, but in no event shall the charge be less than two hundred fifty dollars (\$250.00). Where water is sold to building or construction firms from fire hydrants, a fee shall be charged for each trip by city personnel to facilitate such water connection.
- (5) *Reinspection Fee.* All water meter inspections performed after the initial inspection shall incur a reinspection fee for each trip by City personnel to carry out a reinspection. The reinspection shall take place as soon as practicable, but the

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inspection request shall not be given preference over previously scheduled inspections.

- (6) *Administrative Fee.* All applicants for utility service shall be charged an account connection fee.
- (7) *Interceptor Fee.* Any person responsible for discharging into an interceptor or a grease, grit, lint, oil or similar trap shall incur an annual application/inspection fee.
- (8) *Same Day New Service Connection Fee.* In the event a new service customer requests service to start on the same day as the application for service, a Same Day New Service Connection fee must be paid along with the connection fee and deposit, if applicable.
- (9) *Temporary Connect/Disconnect Fee.* In the event an active residential customer, in good credit standing, requests a temporary disconnection and subsequent reconnection, the customer shall be charged a fee for both services. The customer shall indicate the disconnect and reconnect dates on business days at the time of the request. The customer shall remain active and billed for zero usage. If during the disconnection period water usage is evident, all applicable charges will be assessed, and the temporary disconnection status shall be revoked.

### **Sec. 30-36. - Refund of deposit.**

(a) Refunds of deposits made for utility service shall be made upon termination of such utility service only after payment of all indebtedness to the city for such utility service. Application of deposit may be made in partial or total settlement of accounts when the supply is cut off for nonpayment of bill or for any infraction or violation of any ordinance, rule or regulation of the city relative to utility services offered by the city.

(b) Upon the written request of any customer having a continuous payment history of at least three (3) years without any late charges or penalties, the customer's utility deposit shall be posted as a credit on that customer's utility account.

### **Sec. 30-37. - Effect of transfer; moving.**

Transfer of deposits from one (1) location to another location within the city may be allowed for utility service under the following conditions:

- (a) All utility bills at the old address, delinquent and current, shall be paid in full.
- (b) A new application must be completed before service at the new address is connected.
- (c) New Administrative Fee shall be applicable.
- (d) Previous balance(s) shall be added to the new account.

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- (e) Customers maintaining an active account that require service at another location may obtain the additional service with no deposit required. To obtain the additional service without posting a deposit, the customer must demonstrate a history of timely payments for a minimum of one year at the original account address showing the assessment of no more than three late fees in the previous twelve (12) month period.
- (f) Customers transferring from an active account to a new active account may obtain the new service with no deposit required. To transfer the deposit, the customer must demonstrate a history of timely payments for a minimum of one year at the original account address with no more than three late fees in the previous twelve (12) months. In the event a customer cannot meet the conditions of the transfer request, the customer shall be required to post the deposit in effect at the time of the request.

### **Sec. 30-38. - Determination of charges.**

- (a) Definitions.

*Commercial unit.* Any other structure or part thereof used to fulfill the housing requirements of not more than one (1) business establishment or of not more than one (1) establishment of any other kind, but a business unit shall not include any kind of multi-family or multi-unit establishment.

*Multi-unit residence or business.* A building consisting of two (2) or more residential or commercial units.

*Residential unit.* Any structure or part thereof used to fulfill the housing requirements of one (1) or more persons living together as a single family.

*User or customer.* Any person, firm or corporation connected to the city water system for the purpose of receiving water service.

*Irrigation.* Any system used for the sole function of watering landscape.

- (b) *Water rates.* All property upon which any building has been or may hereafter be erected having a connection with any mains or pipes presently existing or which may be hereafter constructed and used in connection with the city water system shall pay the water rates for each month of water service furnished by the city.
- (c) If the user's water meter becomes inoperative and fails to register, the customer shall be charged at the average monthly consumption as shown by the meter. All water that passes through the meter shall be charged for, whether used or not.
- (d) *Sewer Commercial rates.* The commercial rates or charges for the use and service of the sewer system of the city.
- (e) *Sewer Residential rates.* Sewer rate is calculated based on the lesser amount of the monthly usage or the sewer seasonal average. The sewer seasonal average is a standardized monthly billing amount (gallons) based on the average consumption of the months of December, January, and February, not to exceed 12,000 gallons for new

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residents, and not to exceed existing customer's determined sewer seasonal average/Winter Quarterly Average. The rates or charges for the use and service of the sewage system (customer's actual charges shall be determined by the customer's water usage consumption).

- (f) *Billing adjustments.* Utility customers may apply to the utility billing department for billing adjustments on the customer's account. All requests for billing adjustments shall be considered in accordance with the city's utility billing policy, as it may be amended from time to time.
- (g) Customers without metered water shall be charged the billing amount as established by separate ordinance, in the schedule of deposits, fees, and charges for water and wastewater (and any other city-owned utility service).
- (h) *Sewer Use Credit Program.* Voluntary program intended to provide credit for water not processed by the City's sanitary sewer system. The Program is available for commercial customers where water is consumed or lost in product or production due to evaporation. Eligible customers shall pay an application fee, monthly administrative charge, and an annual testing fee. In the event meter repairs are needed, the customer shall be responsible for charges related to labor, parts, and a retesting fee. Accounts opened for the purpose of the Program shall not be required a deposit, nor billed water or sewer rates related to the sub-metering.

### **Sec. 30-39. - When payment due.**

(a) All bills for utility services furnished by the city shall be due within (20) twenty business days following the bill date.

(b) A payment plan may be furnished upon the approval of the Chief Financial Officer or their designee. In the event the terms of the payment plan are violated, the plan shall become null and void, and the full amount in arrears shall become payable on the due date. If the entire payment is not made, a late fee shall be assessed along with the applicable non-payment disconnection.

### **Sec. 30-40. – Late Fee.**

Customers receiving city utility services that fail to make payment by the due date shall be required to pay the gross amount of the bill, calculated as one hundred ten (110) per cent of the amount due. A delinquent notice shall be processed and mailed to the customer showing the amount due in arrears, the late fee and the deadline time for payment to avoid interruption of utility service.

### **Sec. 30-41. - Disconnection for nonpayment.**

In the event a utility customer fails to make payment for services within fifteen (15) days following a delinquent notice; a payment extension date has passed without full payment; or no termination hearing has been scheduled, the city may disconnect and discontinue all utility services furnished to

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the customer. In the event full payment, including applicable fee(s), within seven (7) days after disconnection of services, the account shall be final with applicable deposit applied.

**Sec. 30-42. - Reconnection after disconnection.**

If utility service is disconnected for nonpayment of the bill, the consumer shall have the right to have service reconnected only upon the payment of the amount due, the applicable processing fee and additional deposit.

**Sec. 30-43. - Voluntary discontinuance of service.**

Customers wishing to discontinue the use of any utility service shall provide written notice thereof at the city hall. Failure to do so shall render customer liable for the payment of all bills until such notice has been provided.

**Sec. 30-44. - Pro rata and other charges established.**

(a) A charge, which shall be known as the pro rata shall be made against each lot or tract of land, and the owner thereof, whose water or sewer lines shall be hereafter connected with any water mains or sewer mains in the following manner and in accordance with procedures and service area maps promulgated by city staff:

(1) Park Street between Walnut and Pear Streets:

Lots 1—23 of Block 25	Lots 26—44 of Block 26
Water \$354.29 per	\$354.29 per
25' Lot	25' Lot
(\$14.17 per linear foot)	(\$14.17 per linear foot)
Sewer \$537.83 per	
25' Lot	
(\$21.51 per linear foot)	

(2) Pearland Parkway between Barry Rose Road and Mary's Creek:

Water—96.9 acres at \$776.00 per acre
Sewer—360.2 acres at \$584.33 per acre



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(3) FM 518 at FM 1128 west of Reid Boulevard:

North Side of FM 518	South Side of FM 518
Sewer \$44.60 per linear foot	\$53.91 per linear foot

(4) Service Area 1 (south of Beltway 8, west of State Highway 288, and east of FM 521)

Water—1,638 acres at \$41.00 per acre

Sewer—1,638 acres at \$15.00 per acre

(5) Service Area 2 (south of Broadway Street, east of County Road 48, and west of State Highway 288)

Water—521 acres at \$74.00 per acre

Sewer—2,221 acres at \$33.00 per acre

(6) Promenade Shops Drive south of North Spectrum Boulevard, Spectrum Boulevard between Promenade Shops Drive and SH 288, north along the SH 288 Frontage Road and east along the Beltway 8 Frontage Road to Fellows Road.

Water—\$18.30 per linear foot

Sewer—\$11.40 per linear foot

(7) Certain properties located in the vicinity of Hawk Road and Cullen Parkway.

Sewer: \$778.17 per equivalent single-family connection

(b) In addition to the pro rata charge on water and sewer mains, the property owner must pay all other applicable charges as established by city ordinance.

**Sec. 30-45. - Parks and recreation donation fund.**

(a) A parks and recreation donation fund is hereby established which will allow citizens to make monthly donations to fund parks and recreation capital items and projects. The appropriation of these funds shall be recommended by the parks and recreation director to the city manager on an as-needed basis.

(b) The parks and recreation donation fund shall be promoted through the city's monthly water bill. Citizens and businesses may voluntarily add a dollar amount of their choice to their monthly payment. All funds collected shall be deposited in a city account designated as the Parks and Recreation Donation Fund.

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### **Sec. 30-46. - Testing of meters.**

A customer may request, through the Water Billing and Collection Department, an accuracy test on their water meter performed by an independent meter testing company contracted by the City. The results, based on the American Water Works Association testing standards by meter size and type, will be provided to the customer and the City. Based on current testing standards, an accurate meter registers a test result of +/- 1.5% of 100. If test results indicate the meter is inaccurate, the meter shall be replaced, the City shall pay all meter testing costs, and the customer's account shall be adjusted accordingly. If the test results indicate the meter is accurate, all meter test costs shall be charged to the customer, and the account balance shall remain unchanged.

### **Sec. 30-47. – Bankruptcy notice.**

The utility billing department shall, upon notice of bankruptcy notice listing the city water department as part of its legal debt, immediately close the existing service account and create a new account, with the active date of the new account being the date of receipt of such notice, unless otherwise directed in writing, by the person(s) filing the bankruptcy action. Deposits on record will be applied to the finalized account, and a new deposit shall be required for the new account. Balances due for closed accounts shall remain in the closed account file account until the balance is either paid by debtor through bankruptcy or the city receives notice, by court order, that the amounts are not required to be paid. Balances not paid may be written off with approval of the city council and shall be noted as a bankruptcy on department records.

**Secs. 30-48—30-55. - Reserved.”**

**Section 3. Repealer.** All previously adopted amendments in conflict herewith shall be and are hereby repealed but only to the extent of such conflict.

**Section 4. Penalty.** Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be punished by a fine in any sum not exceeding Two Hundred Dollars (\$200.00).

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**Section 5.**     **Savings.** All rights and remedies which have accrued in favor of the City under this Chapter and amendments thereto shall be and are preserved for the benefit of the City.

**Section 6.**     **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 7.**     **Codification.** It is the intent of the City Council of the City of Pearland, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

**Section 8.**     **Publication.** The City Secretary shall cause this Ordinance, or its caption and penalty, to be published in the official newspaper of the City of Pearland, upon passage of such Ordinance.

**Section 9.**     **Effective Date.** This Ordinance shall become effective ten (10) days following its second and final reading.

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PASSED and APPROVED ON FIRST READING this 1<sup>st</sup> day of March, 2021.

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J. KEVIN COLE  
MAYOR

ATTEST:

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CRYSTAL ROAN, TRMC, CMC  
CITY SECRETARY

PASSED and APPROVED ON SECOND AND FINAL READING this 22<sup>nd</sup> day of  
March, 2021

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J. KEVIN COLE  
MAYOR

ATTEST:

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CRYSTAL ROAN, TRMC, CMC  
CITY SECRETARY

APPROVED AS TO FORM:

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DARRIN M. COKER

**ORDINANCE NO. 220-12**

CITY ATTORNEY