

**AN ORDINANCE REPEALING ORDINANCE NO. O-2013-733 REVISING SEWER SERVICE CHARGES AND PROVIDING FOR A PENALTY**

WHEREAS, the City of Kirby presently supplies water to the citizens of Kirby through wells located within the city limits of Kirby which are maintained by the City of Kirby; and

WHEREAS, the City of San Antonio under provisions of a written contract presently furnish sanitary sewer services to the City of Kirby; and

WHEREAS, the cost to the City of Kirby under such contract is passed on to the water users of the City of Kirby along with a charge for water consumption; and

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Kirby, Texas as follows:

SECTION 1. Ordinance No. O-2013-743 hereby repeals Ordinance No. O-2013-733.

SECTION 2. UTILITY SERVICES RESIDENTIAL/COMMERCIAL:

- a. All persons utilizing water, sewer, and garbage service in the City of Kirby, Texas shall be required to as a condition of such service, pay over to the Utility Billing Clerk a utility deposit. Every person, firm or corporation within the City shall be charged the monthly water and sewer service rates as shown in Attachment "A" of this ordinance. No free service from either of said system or any part of it shall be rendered to any firm, person or corporation whatsoever.
- b. Residential accounts shall be assessed a utility deposit of one hundred dollars (\$100.00). In addition, a five (\$5.00) dollar fee for the recycling bin (residential accounts only) will be added to the one hundred (\$100.00) dollar deposit for a total of one hundred and five (\$105.00) dollars. New residential accounts will be charged 100% sewer until the completion of a winter averaging period.
- c. Commercial accounts will be assessed a utility deposit based on the monthly average of the previous occupant. If it is a new business, the City Manager shall determine the deposit on the type of business. A minimum commercial deposit of one hundred (\$100.00) dollars is required. All commercial account sewer rates will be based on each month's consumption (100%).
- d. Residential/Commercial deposits shall be held in trust by the City of Kirby, Texas until such time as the first three (3) year period expires and shall be reimbursed, in full with no interest, upon written request and the account in good standing for the preceding twelve months of the demand. The City shall have the right to deduct any amount owed

to the City for water, sewer, or garbage service from the deposit prior to reimbursement of same.

### SECTION 3. DUE DATE, PENALTY DATE AND CHARGES:

- a. All charges for water service furnished by the City of Kirby shall be due upon receipt (the first of each month at the Kirby Water Department) and if not paid by the 15th day of said month shall be assessed a 10% penalty of total amount due. If the fifteenth (15th) falls on a Saturday, Sunday, or holiday, customers will be allowed to pay the net amount on the next business day between 8:00 a.m.-5:00 p.m. without penalty or additional charges. If water service has been terminated for non-payment and is in the process of being closed out, utility service may be restored if all arrears are paid.

### SECTION 4. TERMINATION OF SERVICE DUE TO NON-PAYMENT:

- a. Customers whose accounts remain unpaid on the twenty-seventh (27th) of any given month shall have their services terminated on the Wednesday next following the twenty-seventh (27<sup>th</sup>) of any given month at 10:00 a.m. In such event, charges for reconnecting water service shall be as follows:
  1. To re-instate services that have been terminated due to non-payment, a charge of twenty-five (\$25.00) dollars will be added to the amount due and the account must be paid in full between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday prior to services being re-instated.
  2. Such reconnection fee shall be assessed in addition to the charge of water actually used by such customer, as indicated by the water meter reading.
- b. The City Manager shall institute a procedure to advise citizens with delinquent accounts of their rights prior to termination of service. Such procedures shall be consistent with the laws of the United States, the laws of the State of Texas, and city ordinances.
- c. The City Manager, only subject to a written request, shall have the authority:
  1. ADJUST A BILL: the Billing Clerk can make an adjustment unless the adjusted amount exceeds twenty-five (\$25.00) dollars, any adjustments exceeding twenty-five (\$25.00) dollars shall be authorized by the City Manager). Adjustments may be made to the sewer bill, if the average has been affected by a water leak during the winter averaging period. The request must be made in writing with proper receipt that the leak has been repaired. Requests for adjustments shall be received no later than the May billing (service from April - May due June)
- d. Non-Sufficient Checks (NSF): A fee of twenty-five (\$25.00) dollars for each non-sufficient check will be charged. The check must be picked up within three (3) working days and full payment must be paid in cash, money order, or cashier's check to include a twenty-five (\$25.00) dollar fee. A personal check will not be accepted in lieu of cash,

money order, or cashier's check for the payment of the NSF check. For utility accounts that have not fulfilled this requirement are subject to having water service terminated and charged an additional fee of thirty (\$30.00) dollars for reinstatement of water service. The City of Kirby will not accept checks from customers that have submitted two (2) returned checks for any of the city funds (system, general, or meter funds) for two (2) years from the date of the second check.

e. Tampering with Meters: It shall be unlawful for any plumber or individuals other than those authorized by the city to connect, disconnect, move, damage, or tamper with any such meter; or to turn water on/off at the curb stop, valve, meters; open or tamper with any meter box. Kirby water department crews will make all repairs and renewals from the main to the meter and it shall be unlawful for any person(s) to repair or renew service pipes from the main to the meter.

f. Unauthorized use of water:

1. Where it can be shown that a customer has had the benefit of the use of water from the city waterworks at a residence or place of business, as the case may be, such customer shall be assessed a fee of seventy five (\$75.00) dollar fee for each such incidence of unauthorized use of water. Such fee shall be assessed in addition to the utility deposit and any water usage, as indicated by the water meter reading.

2. Reconnection charge where the water meter has been removed:

A reconnection fee of fifty (\$50.00) dollars shall be applicable where the meter has been removed.

3. Damage to meters or valves:

Where damage occurs to meters or valves due to tampering or unauthorized use of water, such customer shall be assessed the actual costs of repair plus the reconnection fee set out in paragraph f(2) above.

All applicable charges shall be added to the account and the account must be paid in full prior to services being reinstated.

g. Transfer fee:

1. A fee in the amount of twenty-five (\$25.00) dollars and any outstanding balance shall be required for subsequent changes of locations within the City.

h. Excavation Fee:

1. In the event, that the City is required to excavate a water/ wastewater utility line for the purpose of ascertaining the location of a leak and such leak is found to originate

on a private, rather than a city-owned, water/wastewater line or connection, the cost of such excavation to the city shall be added to the account responsible for said leak location and shall be payable to the city in accordance with the terms of this ordinance.

#### SECTION 5. GARBAGE ONLY:

- a. All persons desiring to utilize the garbage ONLY, will be required, as a condition of such service, pay to the Utility Billing Clerk the sum of one hundred (\$100.00) dollars, said sum representing a garbage deposit. Said deposit shall be reimbursed, in full with no interest, after a period of three (3) calendar years with written notice or four to six weeks from date of termination of service.

#### SECTION 6. TERMINATION OF SERVICE:

- a. Any person, firm, or corporation who shall have made an application for water service to the City of Kirby shall be responsible for all water, sewer, garbage/recycling services under the terms of such application until written notice is given to the Kirby Water Department by such person, firm, or corporation of their intention to discontinue such services. There shall be no pro-rating of any water or garbage bill on a final bill. The sewer will be calculated at the current winter average or on 100% whichever is less.

#### SECTION 7. WINTER AVERAGING:

- a. Monthly sewer bill to residential (one and two family residence) customers shall be computed on the basis of "winter averaging" sewer charge period. The winter averaging of sewer charge is the period of water consumption during the three (3) consecutive billing cycles commencing on November 15th and terminating before February 15th of each year. The City of Kirby shall establish monthly sanitary sewer service charges for customers based upon their average of the monthly water consumption during the three (3) consecutive billing cycles. The customer must receive sanitary sewer service at one location during the entire three (3) consecutive billing cycles in order to establish a "winter average." Customers that have not yet established a "winter average" or transfer service shall be billed based on one hundred percent (100%) of water consumption.

#### SECTION 8. SEWER:

- a. The City of Kirby will be responsible for all sewer laterals that extend from the city sewer mains up to the curb line or the edge of the city street. This does not include the city easement or bar ditches. The resident shall be responsible for all sewer and water lines that are located in the easement or the bar ditches. The City of Kirby will repair, locate or install lateral lines that extend from the city sewer main up to the curb line or the edge of the city street (where the street terminates). The City of Kirby will not be held responsible for lateral problems caused by tree roots extending from the customer's yard, blockages caused by debris (e.g., toilet paper, diapers). The City of Kirby shall be

responsible for the repair of lateral lines that are located in the street. Such repairs include the collapse, offset or cracking of the lateral lines. The City of Kirby shall not be held responsible for the repair of lateral lines that occur under the sidewalks or at the edge of yards or easements.

#### SECTION 9. WATER CONSERVATION:

- a. The City of Kirby in an effort to encourage water conservation shall provide a rebate in the amounts shown on Attachment A to residential customers when they purchase and install ultra low-flow toilets( 2 per household) or a high efficiency washer ( 1 per residence) , and circulating pumps (hot water on demand), provided that rebates will be provided for not more than two (2) low flow toilets, not more than one high efficiency washer, and not more than one circulating pump (hot water on demand) every five (5) years (see Attachment A)

#### SECTION 10. EDWARDS AQUIFER AUTHORITY:

- a. There shall be an assessment fee to pass through from the Edwards Aquifer Authority for management fees included on your monthly water bill.

#### SECTION 11. WATER/SEWER CAPITAL OUTLAY:

- a. There shall be a four (\$4.00) dollar water/sewer capital outlay fee assessed each utility service account.

#### SECTION 12. PENALTY:

- a. A violation of any of the rules contained in this ordinance or a doing or causing to be done by any person, persons, firm or association of any of the things or acts forbidden or made unlawful in any of the sections of this ordinance shall be deemed to constitute a violation under the terms of this ordinance and an offense and shall be punishable as such, and for each and every violation of the terms of this ordinance the person, firm, or corporation shall, upon conviction thereof in the Municipal Court be fined, not fined less than one (\$1.00) dollar nor more than two hundred (\$200.00) dollars and each violation shall constitute a separate offense.

#### SECTION 13. VALIDITY:

- a. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases are separable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by a valid judgment or decree of any court of competent jurisdiction, such remaining phrases, clauses, sentences, paragraphs or sections of this ordinance shall remain in full force and effect, since the same would have been enacted by the City

Council without the incorporation in this ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs or sections.

SECTION 14. EFFECTIVE DATE:

- a. This ordinance will become effective on \_\_\_\_\_ and reflect on the bill sent at the end of \_\_\_\_\_ due \_\_\_\_\_.

PASSED AND APPROVED on first reading the 19<sup>th</sup> day of December, 2013.

PASSED, APPROVED, AND ADOPTED on second reading the 9<sup>th</sup> day of January, 2014.

\_\_\_\_\_  
TIMOTHY WILSON, Mayor

ATTEST:

\_\_\_\_\_  
PATTY COX, City Secretary

ATTACHMENT "A"

CUSTOMER CLASS:

RESIDENTIAL RATES

WATER

Base	\$10.00
1-10,000	1.80 per 1,000 gal
11-20,000	2.25 per 1,000 gal
21-30,000	3.25 per 1,000 gal
31-40,000	4.25 per 1,000 gal
41,000 +	6.25 per 1,000 gal

SEWER

0-1,000	\$17.60
per 1,000 after	\$4.58

COMMERCIAL/APARTMENT/MOBILE HOME/BULK

WATER

Base	\$15.00
1-100,000	\$2.00 per 1,000 gal
101,000+	\$3.00 per 1,000 gal

SEWER

0-1,000	\$17.60
per 1,000 after	\$4.58 per 1,000 gal

STAGE II/III WATER RESTRICTIONS: Upon notification from the Edwards Aquifer Authority (EAA) declaring Stage II /Stage III water restrictions, the Mayor of the City of Kirby will declare Stage II/Stage III within the City of Kirby which will automatically mandate a 20% increase on all water rates over 1,000 gallons until Stage II/III is terminated by order of the EAA and the Mayor of the City of Kirby

In accordance with the City of San Antonio Water and Sewer Ordinance a sewer surcharge will be calculated accordingly for restaurants, carwashes, dry cleaners, and car dealers based on formulas provided by San Antonio Water System.

NOTES:

Residential accounts that have completed a full winter averaging cycle (Nov. 15-Feb. 15 of each year) will receive a flat rate for sewer. The new rate will appear on the billing cycle due April 15th. This rate is calculated by averaging the three billing cycles (December, January and February) and taking this average and applying the current sewer rates to the average.

WINTER AVERAGING EXAMPLE:

December usage	3,000 gallons
January usage	5,000 gallons
February usage	<u>5,000 gallons</u>
	13,000 gallons
divide by	<u>3 (total of Dec. Jan. and Feb.)</u>
	4.333 is the average
-	<u>1.000 (base rate for sewer \$.17.60)</u>
	3.333 remainder
x	<u>4.58 (each additional thousand gallon)</u>
	15.26
+	<u>17.60 (base rate)</u>
	\$32.86 new sewer average

Residential accounts that have not completed a winter averaging cycle (Nov. 15-Feb. 15 of each year) will have their sewer rates calculated on each month's water consumption (100%) until such winter average is established.  
Commercial accounts/Multi-family sewer rates will be calculated on each month's water consumption (100%).

REBATES- RESIDENTIAL CUSTOMERS ONLY

\$50.00 - rebate for each ultra low-flow toilet (2 per household), not more than two (2) every five (5) years  
\$50.00 - rebate for a high efficiency washer (1 per residence), not more than one (1) every five (5) years  
\$75.00 - rebate for circulating pumps (hot water on demand), not more than one (1) every five (5) years