Chapter 47

WATER AND SEWERS*

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ARTICLE I. IN GENERAL

Sec. 47-1. Definitions.

The term "department" when used in this chapter shall mean public works and engineering department and the term "director" shall mean the director of the public works and engineering department except where the context requires otherwise.
(Code 1968, § 49-1; Ord. No. 83-19, § 22, 1-11-83; Ord. No. 90-635, § 152, 5-23-90; Ord. No. 91-1076, § 11, 7-17-91; Ord. No. 93-514, § 111, 5-5-93)

Sec. 47-2. Applicability of chapter to water systems of former water control and improvement and fresh water supply districts.

The provisions of this chapter applicable to water service and rates and charges therefor shall be applicable not only to the city water distribution system proper but also to the water systems of those certain former water control and improvement and fresh water supply districts, and all other water distribution systems, which have been taken over for operation and are being operated by the city as the result of annexations made of areas which included the entire areas of such districts.
(Code 1968, § 49-2)

Sec. 47-3. Responsibility to repair, replace, etc., facilities installed by former water control and improvement or fresh water supply district.

In those instances where a water control and improvement or fresh water supply district has installed water and sanitary sewer and drainage facilities in undeveloped areas and such district is thereafter annexed by the city and abolished as provided by law, any person desiring to subdivide, develop or build in any such area shall bear the cost and expense of repairing, replacing, testing and placing such facilities in operational condition acceptable to the director, as and until such time as any such person desiring to use any such facilities has, at his own cost and expense, placed such facilities in such proper operational condition, no building permits within such area shall be issued by the city, and no connections for services from any such facilities will be allowed by the city.
(Code 1968, § 49-3)

Sec. 47-4. Use of water meter required; exception for fire sprinkler systems previously installed.

(a) Metered water service requirements.

(1) *Definitions.* The following terms, when used in this subsection, shall have the

meanings ascribed to them in this item, except where the context clearly indicates a different meaning:

Closed type sprinkler system is a sprinkler system in which no water can be drawn off except through a sprinkler head, main drain, or inspector's test connection.

Open type sprinkler system is any sprinkler system other than a closed type sprinkler system, including those using a tank or hose valves.

(2) Water will be furnished and delivered through the water distribution system of the city only through meters. Meters must be listed on the City of Houston Department of Public Works & Engineering's product approval list.

(3) Open type automatic fire sprinkler systems will be metered by a fire rated meter as specified by the utility official.

(4) Closed type automatic fire sprinkler systems either will be metered by a fire rated mater or will have a city approved backflow prevention device with a bypass meter. When a property owner elects to use a backflow prevention device, the backflow prevention device will be located on private property in a location that may be inside or outside of the structure as approved by the utility official and will be owned and maintained by the property owner, provided that the bypass meter will be owned and maintained by the city.

(b) The provisions of subsection (a) shall not apply to the continuation of unmetered water service for fire sprinkler systems installed prior to October 2, 2002, unless:

(1) Testing by the utility official determines that there is an unauthorized flow of water through the fire line;

(2) An illegal connection to a fire line is found through which water for domestic purposes can flow without being metered; or

(3) The building owner or manager fails to provide access upon request to the utility official to inspect and/or test the system.

(Code 1968, § 49-4; Ord. No. 02-926, § 1, 10-2-02; Ord. No. 03-332, § 1, 4-2-03)

Sec. 47-5. Connections generally.

It shall be unlawful for any person other than the authorized employees of the department, persons authorized in writing by the utility official pursuant to the regulations promulgated pursuant to subsection (a) of section 47-17 of this Code and persons authorized pursuant to a written contract or agreement therefor executed by the city to make any tap, or connection with or repair or attachment to the water mains or water distribution pipes of the city, or to pipes belonging to the water customers of the city situated on any city property, or to any pipes or mains not metered, or to any fixture connected to said pipes or mains.

(Code 1968, § 49-5; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-6. Order required before water turned on.

Before water can be turned on the premises permanently, the owner of the property, or his duly authorized agent, must show to the department a written order from the plumbing inspector, which shall state that the plumbing has been completed in strict accordance with the laws and ordinances of the city and is ready for the water to be turned on, and any person turning on the water, or procuring another person to turn it on, without such order, shall be guilty of an offense.

(Code 1968, § 49-6)

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Sec. 47-7. Control of water service connection.

That part of the water service connection extending from the main to the meter, including the corporation cock, lead pipe, galvanized pipe or cast-iron pipe, or copper pipe, stopcock, and also the meter and meter box shall continue under the control of the department, to be maintained by the department, and shall not be removed, repaired or tampered with except by order of the public works and engineering department. Provided, however, this section shall not prohibit the shutting off of the water at the meter when such action is necessary to alleviate the threat of broken pipes resulting from cold weather or other emergencies.
(Code 1968, § 49-7; Ord. No. 87-538, § 1, 4-21-87; Ord. No. 93-514, § 112, 5-5-93)

Sec. 47-8. Application for installation of water meter generally.

Every person desiring the installation of a water meter with a connection of one inch or less shall be required to sign and execute the following application for installing a meter before the city will install such meter, which application for installing the meter shall be and become a contract by and between the applicant and the city upon acceptance of the same by the city:

"Application for Installing Meter
Houston, Texas, _____, 19___.

"The undersigned subscriber hereby makes application to the City of Houston, for the installation of a ___ inch meter, to be set at the premises known as _____ Street, Houston, Texas, owned by _____, occupied by _____, and hereby agrees to pay to the city the sum of $_____ service charge upon such meter; such service charge to be paid by subscriber in full. After the payment of the above amount in full, no further service charge shall be required during the time that such meter, or other meter, remains connected at such premises under an existing water service contract. It is expressly agreed to and understood by subscriber that the foregoing application does not constitute, when accepted, a purchase of the meter but shall constitute a service charge agreement only, and that such meter shall remain at all times the property of the City of Houston.

_____

Accepted by the City of Houston _____ 19___.

By _____."
(Code 1968, § 49-8)

Sec. 47-9. Reserved.

Sec. 47-10. Installations for supplying boilers or hot water tanks.

Installations for supplying boilers or hot water tanks shall be made in such manner as will prevent the hot water from backing into the meter. The owner of the premises will be held responsible for all damages to meters resulting from hot water backing up into them.
(Code 1968, § 49-10)

Sec. 47-11. Required connections to public sewers.

All owners of real property having a building or structure thereon to which water is supplied by a public or private water supply system shall ascertain the availability of public sewer service thereto. If such real property is situated within three hundred (300) feet of a public sanitary sewer main or lateral which has the capacity to provide service thereto, the owner shall, upon notice to do so by the department, be required to make proper and permanent connection thereto and to remove all surface privies and cesspools. Any person owning such real property who, after being given reasonable notice by order of the authorized employee of the department, fails to connect with such available public sewer service or fails to remove surface privies or cesspools shall be guilty of a misdemeanor.
(Code 1968, § 49-10.1; Ord. No. 69-1637, §§ 1–3, 9-3-69; Ord. No. 87-2064, § 1, 12-22-87)

Sec. 47-12. Application and permit for sewer service generally.

Any person desiring sewer service from the city who is not currently a water customer of the city shall make application therefor to the utility of-

ficial on forms furnished by such official. Upon obtaining a permit from the utility official authorizing such service, and upon making the deposit required by section 47-126 of this Code, and executing a form of agreement provided for by the city for sewer service, such person shall, subject to the provisions of this chapter and other city ordinances governing same, be entitled to receive from the city sanitary sewer service.
(Code 1968, § 49-11; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-13. Sewer lines and facilities for industrial, institutional, commercial and other developments.

For industrial, institutional, commercial and other developments (including among others, by way of example but not by limitation, apartment projects, shopping centers, medical centers, condominiums, et cetera), where it is intended that title to all of the land to be developed will remain as a unit in the developer or his assigns, and the improvements to be constructed thereon may or may not be leased, rented or sold to others, sanitary sewer lines and facilities to provide service to such land and the improvements thereon shall be installed, repaired and maintained at no cost or expense to the city and title to such sanitary sewer lines and facilities shall remain vested in the owners of the land and be such owners' sole responsibility. No permit will be issued by the city authorizing such sanitary sewer lines and facilities to be constructed or to be connected to the city's sewer system until the city has approved the plans for such lines and facilities and the applicable connection charge has been paid to the city in cash in full. All such sewer lines shall be inspected during their construction by the city and, upon completion, tested to insure compliance with the latest adopted standard specifications of the city.
(Code 1968, § 49-12)

Sec. 47-14. Retail water or sewer service outside city limits.

(a) This section applies to any retail water or sewer service requested to be provided by the city at premises which are located, in whole or in part, outside of the corporate limits of the city. As used in this section, "retail water or sewer service" means service provided by the city directly to the ultimate retail consumer (to one customer per connection) at premises under common ownership. "Retail water or sewer service" does not include:

(1) Service provided by the city on a wholesale basis under contract whereby the buyer intends to resell such service to the ultimate retail consumers of such service;

(2) Service provided in bulk under contract authorized by the city council; or

(3) Untreated water service.

(b) No such retail utility service shall be provided for consumption at premises located in whole or in part outside of the corporate limits of the city unless the customer desiring such service has filed an application with the director and such application has been effectively approved as required by this section. An application may be made for water service or sewer service, or both.

(c) The application for such service shall be made upon a form supplied by the director which is substantially similar to the forms used for applications for service to premises inside the corporate limits, except that each application must contain a conspicuous statement in substantially the following form:

THE APPLICANT UNDERSTANDS THAT ALL ORDINANCES OF THE CITY (AS NOW WRITTEN AND AS HEREAFTER AMENDED) WHICH RELATE TO WATER OR SEWER SERVICE OR TO PLUMBING MATTERS, INCLUDING THOSE ORDINANCES WHICH IMPOSE CRIMINAL SANCTIONS, APPLY TO WATER AND SEWER SERVICES PROVIDED BY THE CITY TO PREMISES OUTSIDE OF THE CORPORATE LIMITS. THE APPLICANT ALSO UNDERSTANDS THAT THE CITY MAY SUSPEND OR DISCONNECT SUCH SERVICES IN THE EVENT THAT THE APPLICANT OR ANY OTHER PERSON AT THE PREMISES TO BE SERVED FAILS TO COMPLY WITH SUCH ORDINANCES, WITHOUT REGARD TO WHETHER OR NOT CRIMINAL SANCTIONS ARE ENFORCEABLE AGAINST ANY SUCH PERSON.

(d) No such application shall be accepted by the director unless the application is completed and properly signed by the applicant. No such application shall be approved by the director unless:

(1) The applicant has paid all applicable charges prescribed by the ordinances of the city, including the provisions of this chapter and the ordinances listed in section 47-42 of this Code;

(2) The applicant has paid all other applicable tapping and meter charges and has made any necessary deposit to secure payment of monthly charges;

(3) In the case of sewer service, the applicant has paid the prescribed plumbing code inspection fees and the director has received written evidence from the appropriate plumbing

official that the plumbing system at the premises to be served has been inspected by the city and is in compliance with the city's plumbing code; and

(4) The applicant has submitted proof to the director that the premises to be served are outside of the corporate limits of the city and are under common ownership and that the applicant is the proposed ultimate retail consumer of the requested service and the sole customer to be served by the connection to be established pursuant to the application.

Notwithstanding the foregoing, in the case of a plumbing system which is not in existence at the time the application is considered for approval, the director may approve such application upon the express condition that the plumbing system at the premises to be served be inspected by the city and found to be in compliance with the city's plumbing code before any connection to city water or sewer facilities is made. Any such conditional approval which may be given shall be ineffective unless and until such inspection and finding have occurred.

(e) No application shall be approved unless the director determines that the requested service is engineeringly feasible and that sufficient capacity exists to provide such service.

(f) This section shall not authorize the extension of any utility facilities (other than the installation of a tap or meter, as the case may be). This section shall not affect any other requirements of the city's ordinances relating to extensions of utility facilities.

(g) All ordinances of the city as now written or hereafter amended which relate to water or sewer service or to plumbing matters, including those ordinances which impose criminal sanctions, shall hereafter apply to retail water and sewer utility services provided by the city to premises located outside of the corporate limits. Any such services may be suspended or disconnected in the event that a customer of the city or any other person at the premises so served fails to comply with such ordinances, without regard to whether or not criminal sanctions are enforceable against any such persons.

(Code 1968, § 49-13; Ord. No. 81-488, § 1, 3-17-81)

Cross reference—Building Code, § 10-1.

Sec. 47-15. Reserved.

Editor's note—Ord. No. 96-1248, § 2, adopted Nov. 26, 1996, repealed former § 47-15, which pertained to installation or construction of sewer lines.

Sec. 47-16. Right of city to use, close or disconnect private sewers.

(a) The city shall have the right at all times, through the utility official, chief plumbing inspector or health officer, to connect with and use any private sewer built upon any public street or to reconstruct or close up or disconnect any private sewer which, from any cause, may have become a nuisance.

(b) The utility official shall have the power to stop and prevent the discharging into any public, private or house sewer or drain substances that are liable to obstruct or clog the public sewer, or in any manner injure it, or to disconnect any sewer or house drain that may have been installed contrary to the provisions of this chapter or other ordinances of the city, or that receives the drainage from a plumbing installation not in accordance with this chapter or other ordinances, and to this end may, after five days' notice to the owner thereof, disconnect any such private sewer or drain, and it is made his duty to do so.

(Code 1968, § 49-15; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-17. Water tap charges.

(a) The following charges shall be made for every tap or connection made by the city to the city's water distribution system, which charges shall be in addition to the meter and meter box installation provided by section 47-18. (As used herein, a "short connection" is any connection which does not cross a street; a "long connection" is any connection which crosses a street).

Size (Inches)	*Charge*
5/8 × 3/4 short	$ 315.00

5/8 × 3/4 long	415.00
1 short	360.00
1 long	430.00
1½ short	590.00
1½ long	990.00
2 short	645.00
2 long	1,160.00

The utility official may prescribe regulations for the making of taps by persons other than the city, and such regulations may include a partial or total reduction of the tapping charges shown herein, but such reduction shall apply only in those instances in which the work is not performed by the city or at city expense.

(b) An additional charge of $10.00 will be made for all taps or connections made outside of the city limits.

(c) All tapping charges shown herein shall be paid when application for the tap or connection is made, and the request for service shall be held in abeyance until such charges shall have been paid. The title to all taps and service lines shall vest in the city and the maintenance, repair and replacement thereof shall be at the cost of the city.

(d) Charges for a tap or connection larger than two inches shall be at actual cost, and an estimate of the cost will be made and the estimated amount shall be deposited by the applicant. Upon completion of the work, a detailed statement shall be rendered the applicant and a refund made of the difference, if any, between the deposit and the actual cost, or, if the actual cost is more than the amount of the deposit, the additional amount will be paid by the applicant before water service is furnished through the connection.

(e) A three-fourths-inch by-pass connection will be permitted to serve property upon the same lot at half the cost of a straight-end tap, provided such a by-pass will adequately serve the property to be metered.
(Code 1968, § 49-16; Ord. No. 73-836, § 1, 5-8-73; Ord. No. 78-631, § 1, 3-29-78; Ord. No. 83-19, § 1, 1-11-83; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-18. Charges for installation of water meters.

(a) The following charges shall be made for the installation of water meters up to and including two inches, which shall include the setting of the meter box:

Size of Meter (Inches)	*Charge*
5/8	$100.00
3/4	100.00
1	120.00
1½	185.00
2	240.00

(b) All meters except five-eighths-inch or three-fourths-inch meters shall be paid for in full at the time application is made. Five-eighths-inch by three-fourths-inch meters may be paid for at the rate of $10.00 per month until paid. Subject to the provisions of section 47-18.1, no application for a meter will be accepted except in connection with an application for a tap or connection accompanied by payment in full of the tap or connection fee, unless a meter has already been installed at the location, in which case the applicant may exchange the meter for a larger meter by paying the difference between the charges for the respective meters shown above.

(c) The utility official may prescribe regulations for the furnishing and installation of meters

by persons other than the city, and such regulations may include a partial or total reduction in the charges specified herein, but such reduction shall apply only in those instances in which the work is not performed by the city or at city expense.

(d) All meters and meter boxes which are connected to the city's water distribution system shall become and remain the absolute property of the city.

(e) Charges for all meters over two (2) inches shall be at the actual cost of installation, including cost of the meter box and setting thereof. An estimate of cost will be made and the estimated amount shall be deposited by the applicant. Upon completion of the work, a detailed statement shall be rendered the applicant and a refund made for the difference, if any, between the deposit and the actual cost, or if the actual cost is more than the amount of the deposit, the additional amount will be paid by the applicant before water service is furnished through the connection.

(Code 1968, § 49-17; Ord. No. 73-836, § 2, 5-8-73; Ord. No. 78-631, § 2, 3-29-78; Ord. No. 83-19, § 2, 1-11-83; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-18.1. Tap and meter charges for certain acquired customers.

(a) *Definition.* In this section, "acquired customer" means:

(1) Any customer occupying the same building or structure to which water service was actually provided by a private utility company at one time, but which utility has since been acquired by the city by purchase, condemnation or gift; or

(2) Any applicant for water service occupying the same building or structure to which water service was actually provided at one time by a private utility company holding a certificate of convenience and necessity issued by the Public Utility Commission of the State of Texas (or other state agency) to serve the area in which the premises are located, but which utility's certificate of convenience and necessity has been revoked or amended to exclude the area in which the premises are located.

(b) *Applicability; conflicting provisions.* Water taps and water meters installed to serve acquired customers shall be governed by sections 47-17 and 47-18 of this Code, except as provided below. This section controls over any conflicting provision of section 47-17 or section 47-18.

(c) *Existing meters.* Any acquired customer whose premises in the six (6) months preceding acquisition or decertification of the private utility company were served by a meter formerly owned by a private utility company shall be entitled to a fifty dollar ($50.00) reduction in the amount of any meter charge otherwise applicable. An acquired customer occupying the same building or structure to which water service was actually provided at one time by a private utility company which has been acquired by the city, and whose premises are currently served by a meter formerly owned by a private utility company, may exchange such meter for a meter of like size with no meter charge.

(d) *Installment payments—When due.* When an acquired customer is required to pay a meter charge or tap charge, or both, such payment may be made either in cash or in equal installments. Each such installment shall be one-eighteenth (1/18) of the total payment. The first installment is due at the time that application for the work is made, and the remaining seventeen (17) installments come due on the last day of each even-numbered month thereafter.

(e) *Same—Delinquent; subsequent customers.* When an acquired customer begins making any such installment payments but fails to pay all installments, and if another acquired customer desires to make application for water service to the same premises, then the subsequent acquired customer shall be required to pay the full tap and meter charges applicable to the acquired customer who first elected to pay in installments, less any payments or installments made by the first customer and any intervening customers. The subsequent customer may pay such charges in cash

or in installments, each of which shall be equal to the installments begun by the first customer. The first such installment shall be due when the subsequent customer makes application, and the installments come due on the last day of each even-numbered month thereafter until the full charges applicable to the subsequent customer are paid.
(Code 1968, § 49-17.1; Ord. No. 83-19, § 3, 1-11-83; Ord. No. 83-907, §§ 1, 2, 6-14-83)

Sec. 47-19. Title to water meters and appurtenances; unauthorized opening, etc., of meter box; maintenance of meters.

Title to all water meters and appurtenances including the meter boxes enclosing the same, shall vest in the city. No person other than a duly authorized agent of the city shall open the meter box or tamper or in any way interfere with the meter, except that this section shall not prohibit the shutting off of the water at the meter when such action is reasonably necessary to alleviate the threat of broken pipes resulting from cold weather or other emergencies. The city will maintain, repair and replace all meters and appurtenances in connection therewith at its own cost and expenses.
(Code 1968, § 49-18; Ord. No. 87-538, § 2, 4-21-87)

Sec. 47-20. Setting of water meters.

It shall be unlawful for any person other than the authorized employees of the department, persons authorized in writing by the director pursuant to the regulations promulgated pursuant to subsection (c) of section 47-18 of this Code and persons authorized pursuant to a written contract or agreement therefor executed by the city to set, install, repair, remove or perform any work or adjustment of any nature upon any city water meter or appurtenance thereto.
(Code 1968, § 49-19)

Sec. 47-21. Water meter and box to be free from rubbish and obstructions.

Whenever a water meter is set, whether in the sidewalk or area vault, or in any part of the basement of any building, the space occupied by the meter and the box for the same must at all times be kept free from rubbish or obstructions of any kind.
(Code 1968, § 49-20)
Cross reference—Solid waste and litter control, Ch. 39.

Sec. 47-22. Transient water meters.

(a) Persons desiring to use a transient water meter shall make such application as may be required by the department and make a cash deposit in accordance with the following schedule to secure the city against any loss, damage or water charges:

Transient Water Meter Size (Inches)	*Deposit*
1	$ 500.00
2	1,000.00
3	1,500.00

(b) Such meter and appurtenances will be installed by authorized city personnel and shall be made available for reading and inspection at all reasonable hours. The director shall establish procedures for installation, repairs, maintenance, disconnection and relocation of said meters, and said procedures will be made available to the applicant at the time of initial application.

(c) Any transient meter moved from its original location by unauthorized personnel shall authorize the city to forfeit the entire amount of the customer's deposit. In the event that the applicant wishes to have the transient water meter relocated after installation, it shall be the duty of the applicant to request that authorized city personnel relocate said meter. A charge of twenty-five dollars ($25.00) shall be assessed for the relocation of a transient water meter.

(d) Rates for water usage through a transient water meter shall be as specified in section 47-52. In addition to a charge for water usage, a rental rate shall be charged for each month or portion of a month the meter is held by the transient meter customer according to the following schedule:

Transient Water Meter Size (Inches)	*Monthly Rental Charge*
1	$ 5.00
2	10.00
3	15.00

(Code 1968, § 49-21; Ord. No. 73-836, § 3, 5-8-73; Ord. No. 83-19, § 4, 1-11-83)

Sec. 47-23. Furnishing water where only available fixture is hydrant or spigot placed in parking section of street; location of hydrant or spigot in yard or common area; etc.

With the exception of temporary service for building construction purposes and similar circumstances, water will not be furnished where the only fixture available is a hydrant or spigot placed in the parking section of the street, and all such water service lines shall be metered. No hydrant or spigot will be placed in any yard, or common area in any premises so situated as to be accessible to persons living in or occupying adjoining premises. No branch shall be taken off a service pipe until after it enters the property of the applicant and then only for providing services to the property of applicant.
(Code 1968, § 49-22)

Sec. 47-24. Warranties; contracts; liability.

(a) The city makes no warranties, either express or implied, with respect to any water or water service. No industrial customer, commercial customer or any other customer, consumer or person is guaranteed any specific quantity, quality, pressure or other characteristic of water or water service. No officer, agent or employee of the city is authorized to make any warranty or guarantee with respect to water or water service, unless such warranty or guarantee is contained in a written contract duly authorized by motion, resolution or ordinance duly adopted by the city council and duly signed by the mayor. Should any express or implied warranty ever be applicable to water or water service provided by the city, the city disclaims any and all implied warranties of merchantability or fitness for a particular purpose, except to the extent contained in a written contract described in this subsection.

(b) Inasmuch as the city is not operated for profit and water charges are computed to cover only the costs of service, the city shall never be liable for any direct, indirect, special, incidental or consequential damages arising out of or relating to water or water services, whether based on contract, tort or other legal theory. The provisions of this Code relating to reductions of water charges in certain circumstances are sole and exclusive remedies.
(Code 1968, § 49-23; Ord. No. 83-19, § 23, 1-11-83)

Sec. 47-25. Reserved.

Editor's note—Ord. No. 01-753, § 2, adopted Aug. 8, 2001, repealed § 47-25 in its entirety. Formerly, said section pertained to water emergencies. See the Code Comparative Table.

Sec. 47-26. Access to premises supplied with water.

The utility official and other employees in the department shall have free access at all reasonable hours of the day to all parts of any premises to which water is supplied.
(Code 1968, § 49-24; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-27. Maximum size of water service connection for fire protection or hydraulic motors.

No water service connection for fire protection or hydraulic motors shall be made larger than eight inches unless approved by the utility official in conformance with the Construction Code.
(Code 1968, § 49-25; Ord. No. 02-926, § 2, 10-2-02)

Sec. 47-28. Right of fire department to use water facilities supplied for fire protection.

In case of fire, the fire department shall have the right to use any hydrant, cistern, hose, pipe or other fixtures supplied wholly or in part from any service pipe used for fire protection.
(Code 1968, § 49-26)

Sec. 47-29. Reserved.

Editor's note—Former § 47-29, which pertained to restrictions on the provision of water service for fire protection purposes, was repealed by § 1 of Ord. No. 86-2109, enacted Dec. 3, 1986. The repealed provisions derived from § 49-27 of the 1968 Code.

Sec. 47-30. Interference with fire hydrants, cisterns, etc.

(a) Every hydrant placed by the city for the purpose of extinguishing fires is hereby declared to be a public hydrant, and no person other than members of the fire department, the health department, and those authorized by the utility official, shall open any of such hydrants, or draw or attempt to draw water from the same, or in any manner interfere with such hydrants.

(b) No person, unless authorized by the department, shall except in time of fire, take water from any public cistern or fire plug, or other means of supply, or place or remove the cover from any such public cistern or fire plug, or place or deposit any dirt or material in any such fire plug, or in the box or appendage connected therewith, or turn any public or private stopcock, or remove the cover from any private stopcock, or permit any act tending to obstruct the use thereof.
(Code 1968, § 49-28; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-31. Obstructing access to hydrants.

No person shall in any manner obstruct the access to any hydrant connected with any water pipe in any street, alley or common in the city, by means of any lumber, brick, building material or other article, or by any hindrance whatsoever.
(Code 1968, § 49-29)

Sec. 47-32. Pollution of reservoirs.

It shall be unlawful for any person to put any filth, animal matter, chips, shavings or any other substance into or to bathe in any city water reservoir, tank or other portion of the city water system. This section shall not be construed to prohibit swimming, fishing and other recreational activities in and upon Lake Houston in those portions of Lake Houston where such activities are authorized pursuant to this Code.
(Code 1968, § 49-31)

Cross reference—Lake Houston, Ch. 23.

Secs. 47-33, 47-34. Reserved.

Editor's note—Ord. No. 01-800, § 4, repealed §§ 47-33 and 47-34 in their entirety. Formerly said sections pertained to prohibited deposits in storm sewers and watercourses generally and placing cuttings, clippings, other trash into storm sewers, gutters draining into storm sewers and derived from Code 1968, §§ 49-32 and 49-32.1.

Sec. 47-35. Waste of percolating water.

It shall be unlawful for any person to commit waste of percolating waters within the city limits by pumping the same into streets, storm sewers, drainage ditches, or natural waterways, except as a temporary measure where required as an incident to the bona fide excavation for the construction of a building or structure, or any public work or public construction.
(Code 1968, § 49-35)

Sec. 47-36. Construction of surface water drains.

(a) It shall be unlawful for any person to construct or maintain any drain into a public street from private property, where the same has been laid for the purpose of draining surface water from such private property, or for the purpose of taking care of rainwater and water from the roofs of buildings on private property, unless such drain shall be laid from the property line to the street, curb or ditch, and be constructed entirely of durable and substantial material as approved by the director of public works and engineering or his designee, and be laid entirely underneath the surface of the ground in the sidewalk, and be covered at all points where the same crosses under such sidewalk, and in the event such drain shall cross under a cement or concrete sidewalk, there shall be not less than two inches of concrete on top of such drain or pipe, and the surface of the sidewalk where such pipe shall cross the same shall be made to conform in height and level to the balance of such sidewalk. All existing drains heretofore laid from property line to the gutter or ditch in any public street shall be

made to conform to the provisions of this section. Where tops of drain leaders do not exceed 25 feet above top of curb or ground at property line, drains may be taken through curb or into ditch. Where drain leaders do exceed 25 feet above top of curb or ground at property line, drains must be taken into a catch basin or curb inlet.

(b) The owner of any property in the city, or his lessee, who is maintaining any drain pipe across any sidewalk in the city, or any downspout not in conformity with the provisions of this section, shall upon notice in writing from the director of public works and engineering or the chief of police, remove such drain or pipe and make the same conform in every respect to the requirements of this section, and failure for five days on the part of such owner, agent or lessee to make such pipe or drain conform to the provisions of this section, after receiving such notice, shall constitute an offense, and each day such owner, agent or lessee shall neglect to correct or repair such drain pipe, after receiving the notice above mentioned, shall constitute a separate offense.
(Code 1968, § 49-35.1; Ord. No. 67-2032, § 1, 10-24-67; Ord. No. 90-635, § 154, 5-23-90; Ord. No. 93-514, § 113, 5-5-93)

Sec. 47-37. Misuse of water; altering plumbing system.

No person shall apply water furnished by the city to any use different from that named in the application and contract for water service, nor shall any consumer supply water to other persons or to other families or permit them to take water, nor shall any person, after the water is introduced to any building or upon any premises make, or employ any plumber or other person to make, nor shall any plumber or other person make, any tap or connection upon such premises for the purpose of altering, repairing, or making extensions or attachments for the purpose of furnishing water to other families on such premises except in strict conformity with the provisions and requirements of Ordinance No. 61-589, finally passed by city council on the twelfth day of July, 1961, and other pertinent city ordinances. Unmetered fire sprinkler lines installed prior to October 2, 2002, and fire sprinkler lines with city approved backflow prevention devices with a bypass meter will be used only for fire protection; if there is any other usage in excess of 1,000 gallons per month per fire system, except for permitted construction, remodeling or expansion of existing systems, the line will be required to be metered with a fire rated meter as specified in subsection (b) of section 47-38 of this Code.
(Code 1968, § 49-36; Ord. No. 02-926, § 3, 10-2-02; Ord. No. 03-332, § 2, 4-2-03)

Sec. 47-38. Discontinuing service for waste or misuse of water.

(a) If any person permits any waste or use of city water contrary to the provisions of this chapter or any other ordinance of the city, his water service excluding fire service shall be immediately turned off and not turned on again until all objectionable conditions have been corrected to the satisfaction of the director. Service so discontinued shall not be turned on again except by authorized representatives of the department.

(b) If unauthorized usage or an illegal connection is found on any unmetered fire line or on an unmetered fire line with a city approved backflow prevention device and a bypass meter, or if the utility official is refused reasonable access upon request to test any unmetered fire line, the utility official shall notify the property owner or manager that the line must be metered with a fire rated meter within 120 days. The new meter must meet the specifications outlined in section 47-4 of this Code, and be installed on private property in the city easement. The property owner will take whatever steps are required to assure that the fire protection system meets all requirements of the Construction Code and the Fire Code, and shall provide appropriate documentation to city code enforcement official that the installation of a full flow meter has not compromised the integrity of the existing fire sprinkler system. If the property owner or manager fails to timely install the meter, service to all other service accounts except fire service accounts at the property location shall be terminated. During the interim period, usage through the unmetered fire line will be estimated and billed based on usage found during the test or based upon the utility official's estimation of usage if testing is refused.

A person who receives a notice to install a meter under this subsection shall upon request

be entitled to a hearing regarding the matter, which shall be afforded in the same manner provided in section 47-70 of this Code. In the event that the hearing official finds that the notice has been issued in error and that there has in fact been no unauthorized, illegal connection or failure to allow access for inspection, then the hearing official shall order the notice withdrawn. Additionally, the hearing official shall be authorized to suspend the notice upon request of the customer and demonstration by the customer that: (1) the customer has not committed any other violation of section 47-4 of this Code within the preceding period of five years, (2) the violation giving rise to the notice was not intentionally committed, (3) the customer has taken effective steps to prevent future violations, and (4) the customer has agreed to reimburse the city for any unauthorized water use and all administrative expenses of the investigation and hearing proceedings in an amount established by the hearing official.

(c) When water is turned off under this section, the reconnection fees prescribed by section 47-70 of this Code shall apply and the service shall not be resumed until such fees have been paid. In addition, the provisions of subsection (f) of section 47-70 of this Code shall apply to such cases where the water is turned on by any unauthorized person or where the utility official deems it necessary to take the steps authorized by subsection (f) of section 47-70 of this Code to protect the city against waste or misuse of water.
(Code 1968, § 49-37; Ord. No. 90-635, § 153, 5-23-90; Ord. No. 02-926, § 3, 10-2-02; Ord. No. 03-332, § 2, 4-2-03)

Sec. 47-39. Notice of consumer's desire to disconnect premises from water service.

Whenever a consumer of city water does not desire to be furnished with water any longer, he shall notify the department at least two days prior to the time he desires his premises to be disconnected.
(Code 1968, § 49-38)

Secs. 47-40—47-42. Reserved.

Editor's note—Ord. No. 96-1248, § 2, adopted Nov. 26, 1996, repealed former §§ 47-40—47-42, which pertained to provisions relating to the release of liens for water and sewer extensions. Regarding references to section 47-42, see section 47-325.

Sec. 47-43. Acceptance of esplanade irrigation systems by the city.

(a) The city shall accept donations of privately constructed irrigation systems located in roadway esplanades in accordance with the following conditions and procedures:

(1) The requesting party shall apply in writing to the department of parks and recreation of the city.

The application shall include:

a. An inventory of irrigation facilities;

b. The date of construction of the facilities;

c. A diagram showing all piping, connections, sprinkler heads and other appurtenances; and

d. A signed deed of gift transferring the irrigation facilities to the city.

(2) If the application is complete, the director of parks and recreation department ("director of parks") shall sign his approval to the deed of gift and forward the application to the department of public works and engineering for review. If the director of public works and engineering finds that the system is acceptable in accordance with the criteria established in accordance with subsection (b) and that the applicant has paid all outstanding water bills for the system transferred, the director of public works and engineering shall sign the deed of gift indicating the city's acceptance of the system.

(3) In no event shall the director of public works and engineering be authorized to excuse or authorize the cancellation of outstanding water bill(s) for the applicant's irrigation system in exchange for the transfer of the irrigation system.

(b) The directors of public works and engineering and parks shall jointly promulgate rules and regulations regarding the transfer of irrigation systems, including criteria for city acceptance, and forms for the application and the deed of gift. Such rules and regulations shall be available:

(1) At the office of the city secretary;

(2) At the office of the director of the parks; and

(3) At the office of director of public works and engineering.

The rules and regulations established hereunder may be amended or supplemented from time to time as mutually agreeable to the directors of public works and engineering and parks.

(c) The department of parks and recreation shall be responsible for maintenance of all esplanade irrigation systems donated to the city.

(d) After the date of acceptance of an irrigation system by the city (execution by the director of public works and engineering of the deed of gift), billing for water usage by such system shall be transferred to the city.
(Ord. No. 86-1991, § 1, 11-18-86; Ord. No. 90-635, §§ 156, 157, 5-23-90; Ord. No. 93-514, §§ 115, 116, 5-5-93)

Sec. 47-44. Delinquent water and wastewater charges—Lien authorized*.

(a) The city is authorized, pursuant to Article XI, Section 5 of the Texas Constitution (Home Rule), together with Sections 51.072 and 402.017 Texas Local Government Code, to impose liens upon property for the purpose of securing payment of delinquent charges incurred as a result of water and wastewater service to such property.

(b) The city council has determined that water and sewer services benefit:

(1) The occupants of property served;

(2) The owners of property served; and

(3) The property served.

(c) If any customer charges for water and wastewater service amounting to $3,000.00 or more remain unpaid for 60 days and the utility official complies with the filing procedures specified in section 47-45, such customer charges, together with applicable late charges, shall be a lien against the real property for which the city provided water and wastewater service.

(d) Provided, however, the utility official shall not file a lien against the property of the owner of a multiple customer complex unless:

(1) The cumulative total of customer charges for water and wastewater service amounts to $3,000.00 or more, which has been unpaid for 60 days;

(2) Service has been terminated to the delinquent customer(s) for at least two weeks;

(3) The owner of the property has been notified in writing at least ten days prior to the filing of the lien concerning the termination of service to such customer(s); and

(4) The delinquent customer or customers are liable for at least 75 percent of the total average monthly billings to the subject property.

As used herein "multiple-customer complex" means property having a common ownership, on which two or more customers have separate city water or wastewater meters, and where none of such customers who are delinquent in payment are: the owner, the owner's agent, or a person acting in concert with the owner to avoid payment of delinquent water and wastewater bills.
(Ord. No. 89-24, § 1, 1-4-89; Ord. No. 90-635, § 153, 5-23-90; Ord. No. 03-925, § 3, 10-8-03; Ord. No. 03-1196, § 2, 12-23-03)

*On October 8, 2003, City Council adopted Ordinance 2003-925, establishing drainage utility service charges for property in the City. The City received a referendum petition under Article VII-b of the Charter regarding Ordinance 2003-925. On December 23, 2003, rather than calling an election, City Council adopted Ordinance No. 2003-1196, which completely repealed Ordinance No. 2003-925.

Sec. 47-45. Same—Procedures relating to filing of liens; release of liens*.

(a) A lien for delinquent water and wastewater service charges may be filed any time after the conditions specified in section 47-44 obtain.

(b) The form of lien shall be promulgated by the director of public works and engineering and approved by the city legal department. The form shall contain:

(1) A statement indicating the purpose of the lien;

(2) The address of the property which is the subject of the lien;

(3) A complete legal description of the property which is the subject of the lien; and

(4) The amount of delinquent charges incurred upon the property as of the date of execution of the lien.

(c) Each lien that is filed shall be:

(1) Executed by the utility official and acknowledged by a notary public of the state; and

(2) Filed in the deed or lien records of the county in which the property is located.

(d) Should additional delinquent charges be incurred subsequent to the date of the original lien, additional liens may be executed and filed, in the form provided above, fixing the additional delinquent charges.

(e) The city attorney may file suit to judicially foreclose the lien in a state court of competent jurisdiction.

(f) When all delinquent charges which existed against the property have been fully paid, the utility official is authorized to execute a release of the lien. The release shall be prepared and approved as to form by the city attorney and shall be duly acknowledged. After execution, the utility official must immediately file the release in the deed or lien records of the county in which the property is located.

(g) No water or sewer services shall be provided to property encumbered by a lien filed pursuant to this division. Provided, however, the utility official shall be authorized to reconnect water and wastewater services if the customer agrees in writing to pay the accrued water and wastewater charges for such property in accordance with a payment schedule acceptable to the utility official.

(h) This section is cumulative of any other remedies, methods of collection or security available to the city under the charter and ordinances of the city or under state law. This section does not affect the department's authority to refuse or to furnish service when delinquent charges exist. (Ord. No. 89-24, § 2, 1-4-89; Ord. No. 90-635, §§ 153, 158, 5-23-90; Ord. No. 93-514, § 117, 5-5-93; Ord. No. 03-925, § 3, 10-8-03; Ord. No. 03-1196, § 2, 12-23-03)

*On October 8, 2003, City Council adopted Ordinance 2003-925, establishing drainage utility service charges for property in the City. The City received a referendum petition under Article VII-b of the Charter regarding Ordinance 2003-925. On December 23, 2003, rather than calling an election, City Council adopted Ordinance No. 2003-1196, which completely repealed Ordinance No. 2003-925.

Sec. 47-46. Same—Notice of lien*.

(a) At least seven days prior to recording of a lien for delinquent water and wastewater charges, the utility official shall send notice, by certified mail, return receipt requested, that a lien will be recorded on the property in accordance with law. The notice shall provide a means by which the charges constituting the lien may be paid or disputed. The notice must be sent to:

(1) The customer in whose name the account for service at the property exists; and

(2) The last known record owner of the property according to the tax rolls of the city.

(b) The customer or owner may file a written protest concerning the lien for any of the following reasons:

(1) The charges assessed are not owed to the city;

(2) The charges assessed are for water and wastewater service at a site other than the property described in the notice; or

(3) That the property to be subject to the lien is exempt as a homestead under the Texas Constitution.

In the event of any such protest, the utility official shall conduct a hearing in accordance with the provisions of subsection 47-70(a).

(c) Absence of receipt of notice required hereunder does not affect the enforceability of the lien. (Ord. No. 89-24, § 3, 1-4-89; Ord. No. 90-635, § 153, 5-23-90; Ord. No. 03-925, § 3, 10-8-03; Ord. No. 03-1196, § 2, 12-23-03)

***Editor's note**—On October 8, 2003, City Council adopted Ordinance 2003-925, establishing drainage utility service charges for property in the City. The City received a referendum petition under Article VII-b of the Charter regarding Ordinance 2003-925. On December 23, 2003, rather than calling an election, City Council adopted Ordinance No. 2003-1196, which completely repealed Ordinance No. 2003-925.

Sec. 47-47. Reserved.

Sec. 47-48. Notice of water termination posted for tenants of a multifamily residential customer.

It shall be unlawful for any person to remove a notice of water termination posted by the department on the door of a tenant of a multifamily residential customer until the earlier of the following:

(1) The arrearage for the multifamily residential customer is paid;

(2) The date of termination specified on the notice has passed; or

(3) The date of termination is cancelled by the utility official or by a court of competent jurisdiction.

Provided, however, the tenant of an individual dwelling unit may remove a termination notice from his door. Violation of this section shall be punishable by a fine not to exceed $1,000.00. (Ord. No. 89-13, § 1, 1-4-89; Ord. No. 90-635, § 153, 5-23-90)

Sec. 47-49. Refund of fees charged for permits, taps or meters.

The following provisions shall govern refunds of fees charged for permits issued under this chapter by the department of public works and engineering as well as refunds of charges for taps and meters for water or wastewater service:

(1) No refund will be made after the stated effective period of the permit has expired.

(2) No refund will be made for a fee of $25.00 or less.

(3) When a fee is in excess of $25.00, the city will retain the first $25.00 and ten percent thereof and refund the balance to the applicant.

(Code 1968, § 2-181; Ord. No. 82-1011, § 1, 6-2-82; Ord. No. 87-1326, § 9, 8-5-87; Ord. No. 90-635, § 159, 5-23-90; Ord. No. 93-514, § 118, 5-5-93)

Editor's note—Section 159 of Ord. No. 90-635, adopted May 23, 1990 and effective July 1, 1990, renumbered former § 2-285 as § 47-49 and amended § 47-49 to read as herein set forth.

Sec. 47-50. Wellhead protection.

(a) The following requirements have been adopted to prevent pollution of water pumped from the wellheads of city-owned wells, as set out below:

(1) It shall be unlawful for any person to construct a tile or concrete sanitary sewer, sewer appurtenance, septic tank, storm sewer, or cemetery within 50 feet of a city water well. With respect to sanitary or storm sewers, it is an affirmative defense to prosecution under this item (1) that the sanitary or storm sewer is located ten feet or more from the city water well, is constructed of ductile iron or PVC pipe that meets American Water Works Association standards, has a minimum working pressure of 150 psi or greater, and is equipped with pressure type joints.

(2) It shall be unlawful for any person to allow livestock in pastures within 50 feet of a city water well.

(3) It shall be unlawful for any person to construct an on-site sewage facility tank perforated drain field, tank absorption bed, or tank evapotranspiration bed, or to construct a petroleum or chemical storage tank or liquid transmission pipeline within 150 feet of a city water well.

(4) It shall be unlawful for any person to irrigate an area within 150 feet of a city water well with spray from an on-site sewage facility.

(5) It shall be unlawful for any person to construct a water well within 150 feet of a city water well unless the well complies with all applicable state regulations.

(6) It shall be unlawful for any person to construct a sewage wet well or sewage pumping station within 300 feet of a city water well.

(7) It shall be unlawful for any person to construct a drainage ditch for industrial waste or sewage treatment waste within 300 feet of a city water well.

(8) It shall be unlawful for any person to construct a sewage treatment plant, animal feed lot, or solid waste disposal site within 500 feet of a city water well.

(9) It shall be unlawful for any person to apply sludge or effluent from a septic tank or sewage treatment plant on land with 500 feet of a city water well.

(10) It shall be unlawful for any person to drill an oil or gas well, including an injection well for recovery of oil or gas, within 500 feet of a city water well.

(b) It is a defense to prosecution under subsection (a) of this section that the actor has obtained a variance in writing from the utility official. The utility official shall grant a variance upon a showing by the applicant that: (1) the facility or activity will not contaminate the groundwater, and (2) the facility or activity is not prohibited under any other provision of this Code.

(c) The department shall investigate existing facilities whether located within or without the distance requirements of subsection (a) and determine if those facilities are a pollution hazard to city well water. The department shall recommend acquisition of such facilities in the event the department determines that the facilities are a pollution hazard to city well water and the owner refuses to take action necessary to abate the pollution hazard.

(d) Any person who violates any provision of this section shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than $500.00 nor more than $2,000.00 for each violation. Each day in which a violation occurs shall constitute a separate offense. In addition to criminal prosecution, the legal department may seek appropriate judicial remedies to protect city ground water from contamination. (Ord. No. 04-844, § 1, 8-11-04)

Secs. 47-51—47-60. Reserved.

ARTICLE II. CITY WATER SERVICE CHARGES

DIVISION 1. GENERALLY

Sec. 47-61. Charges for treated water service generally.

(a) *Generally.* Except as otherwise specifically provided for in this chapter, the charge for treated water service furnished by the city in any given month to any given customer (as defined below) shall be the minimum monthly charge applicable to such customer, plus the charge applicable to such customer for any additional quantity (as defined below), plus any applicable miscellaneous charges accruing in accordance with this chapter or the appendices of this Code.

(b) *Definitions.* As used in articles I and II of this chapter, the following terms shall have the meanings set out below, unless the context clearly indicates that another meaning is intended:

Additional quantity means the gross quantity less the minimum quantity. The additional quantity shall be computed for each month based upon the then-current minimum quantity and the gross quantity for that month.

Commercial customer means any customer that is not a single-family residential customer, a multifamily residential customer, a light commercial customer, a contract treated water customer, an emergency backup service customer, a resale customer, a transient meter customer or an outdoor customer.

Commercial fire line service means service to a water supply system that has been installed for the sole purpose of fire protection and does not