

Sec. 47-70.1. Disputing water bills; administrative review and hearing.

(a) Customers have the right to request an administrative review and/or administrative hearing. The policies governing such review and hearing are prescribed by the utility official and will be available to any person upon request. The customer has 90 days from the date of the first bill that is disputed to request an administrative review or hearing.

(b) An administrative review is an investigation by the department of the customer's account and relevant facts in order to resolve the dispute.

(c) A customer may request an administrative hearing ~~may be held for to review~~ disputes related to article I, division 1 of article II, and article III of chapter 47. The hearing shall be set at a reasonable time and place and shall be held before a hearing officer independent of the operation of the city's water and sewer system, designated by the utility official, with the power to correct or adjust water bills. Provided, however, the department shall not provide hearings for the following:

- (1) The terms or denial of a deferred pay agreement;
- (2) The amount, terms or denial of assistance from the W.A.T.E.R. Fund;
- (3) The customer's financial inability to pay for water services;
- (4) The rate schedule;
- (5) The amount of deposit;
- (6) The amount or application of late penalties;
- (7) Requests that are inconsistent with city ordinances;
- (8) The cost of administrative fees; or
- (9) A matter where the complainant is not the customer for the account.

(d) The customer has the right to be represented by counsel or any other agent and shall notify the city at least two business days prior to the hearing of such representation. In the event the customer is represented by legal counsel, the city may likewise be represented by legal counsel. Failure of the customer to give advance notice of representation by legal counsel will result in the hearing being postponed unless the city fails to object to such lack of notice. In addition to the evidence presented by the customer and the department, the hearing officer may, at the hearing officer's discretion, request additional evidence from either party and may conduct such additional inquiry or investigation as the hearing officer deems appropriate. The hearing officer shall consider all credible evidence presented and shall, based on a

preponderance of the evidence, render a ruling upholding the decision of the department, modifying the decision of the department, or reversing the decision of the department. A record shall be made of the hearing.

(e) Termination of service is suspended by a request for an administrative hearing unless the service was terminated prior to the customer's request for the hearing, the customer closes or transfers his account to a new address, the customer fails to pay charges not in dispute or the customer has prevented the city from obtaining meter readings within the last 60 days.

Sec. 47-70.2. Acceptance and disposition of donations to the W.A.T.E.R. Fund.

(a) The utility official is authorized to accept donations to the W.A.T.E.R. Fund, as established by section 36-61 of this Code. The utility official shall place such funds in the city's trust and agency account in trust for the W.A.T.E.R. Fund.

The utility official shall include the following statement on all water and sanitary sewer bills:

'Check if \$1 added as gift to W.A.T.E.R.'

Whenever a customer's water or sanitary sewer payment shall exceed the amount then due by the exact sum of \$1.00 and such customer has checked the box provided on the bill for contributions to the W.A.T.E.R. Fund, the utility official shall deem the excess a contribution in the amount of \$1.00 to the W.A.T.E.R. Fund.

(b) Upon the written approval of the utility official, the department shall apply W.A.T.E.R. funds as a credit to a customer's water and sanitary sewer bill in the same proportion, which the water and sanitary sewer charges bear to the customer's total bill. Such donated and transferred W.A.T.E.R. funds shall be under the general direction and control of the utility official for all purposes and shall under no circumstances be commingled with water, sanitary sewer or other public funds.

Sec. 47-71. Meter reading not to be combined for billing purposes; exception for umbrella account.

(a) As used in this section, the following terms shall have the meanings set out below, unless the context clearly indicates another meaning is intended:

Contiguous: An establishment is contiguous if all included buildings lie on a continuous tract of land, except for division by a street, alley, sidewalk, right-of-way, natural or man-made waterway, or preserved green area.

Umbrella account shall mean a multifamily residential customer account established pursuant to this section.

(b) Except as provided in this section for umbrella accounts, the meter readings of two or more water meters, even though serving a single building or establishment, shall not be combined for billing purposes, but separate billing shall be made for the water metered through each individual meter based on the sliding scale of charges provided by this division, with the charge computed the same as if there were only one meter serving such customer building or establishment.

(c) A multifamily residential customer whose establishment is served by more than one meter may elect to establish an umbrella account under which all meter readings from its establishment are combined for billing purposes. In order to be eligible to establish an umbrella account the following criteria must be met:

(1) The establishment must be contiguous, and all included buildings must be under the same ownership; and

(2) The owner of the establishment must complete the application for the umbrella account and agree to the conditions required by this article.

(d) The following types of meters may not be included in an umbrella account:

(1) Submeters maintained by the customer;

(2) Meters for which the city bills for water service only, such as outdoor customer meters;

(3) Meters that measure wastewater discharge only; and

(4) Meters that determine the usage for a single unit only of the establishment.

(e) The utility official shall promulgate the application form for establishment of the umbrella account. The application shall include information regarding the address or addresses of the multifamily residential establishment, the nature of any factor that may determine whether the buildings or structures are contiguous, the name of the owner, the number of units in the establishment, the number of meters covered by the proposed account, and any other information deemed relevant by the utility official. The application must be signed by the owner or duly authorized agent thereof, and must be notarized.

(f) The utility official shall grant the owner an umbrella account if the utility official is satisfied that all criteria of this section are met, and the owner or his agent has completed the application for an umbrella account. The umbrella account shall be effective for the next billing period after approval by the utility official.

(g) The following events will terminate the umbrella account:

- (1) A transfer of ownership of the establishment in whole or in part; or
- (2) An election in writing by the owner of the establishment to terminate the umbrella account. Any such election to terminate shall not be effective until the end of the billing period during which the owner's notice is received by the department. An umbrella account that is delinquent may not be terminated by owner election.

~~(h) The provisions of this section relating to the establishment of umbrella accounts shall be effective July 1, 1993.~~

Sec. 47-72. Scaling or reduction of bill generally.

Any scaling or reduction of a water bill as shown by a meter is unlawful and is prohibited, unless such reduction is made in accordance with specific provisions of this division. Any officer or employee of the city scaling or reducing any meter bill, except in accordance with such provisions, shall be personally responsible for the reduction in the bill, and shall be dismissed from the city's service therefor.

Sec. 47-73. Testing meters; ~~adjustments to bills.~~

(a) In case any consumer of water questions the ~~correctness~~ accuracy of a city water meter, he may obtain a test thereof upon written request therefor to the department. The customer may additionally request that he be permitted to be present at the removal and testing of the meter in person or by agent.

(b) Upon the receipt of a written request therefor, the city shall cause the meter to be thoroughly and accurately tested. If the party complaining of the meter has requested that he be present for the removal and testing of the meter, he shall be given reasonable notice of the time thereof and be afforded the opportunity to be present and participate therein.

(c) All meters must meet the accuracy test guidelines of the American Water Works Association. The department shall adjust customer bills for up to 24 months on the basis of results of tests performed by the department. If the meter or register is defective, the department shall repair or replace it. If a meter is damaged so that it cannot be tested, the customer's account may be adjusted for up to 24 months based on the average usage.

(d) When the department retests the meter at the request of the customer, the department shall bill the customer for the cost as follows:

- (1) If a customer requests that a meter be tested that is within the manufacturer's warranty period, and such meter when tested is accurate under the American Water Works Association guidelines; or

(2) If the department has tested the meter within the previous 12 months, and such meter when retested at the request of the customer is accurate under the American Water Works Association guidelines, then the department shall charge the customer the fees stated for this provision in the city fee schedule for the following:

- a. Field testing of meters less than three inches.
- b. Bench testing of meters less than three inches, plus cost of the new meter and related electronic devices.
- c. Bench testing three-inch and larger meters, plus cost of the new meter.

(e) If the department re-reads a meter at the customer's request, and the reading verifies that the department's original reading was correct (equal to or greater than the prior reading), the department shall charge the customer the fee stated for this provision in the city fee schedule. Provided, however, that exempt senior customers, disabled veterans and persons with disability are exempt from this fee.

Sec. 47-74. Adjustment of bill as result of defect in customer's line.

(a) Any residential, commercial, multifamily or outdoor customer of the city may request a ~~correction~~ an adjustment of any water bill showing excessive usage due to a loss of water through an excusable defect in the customer's water line for a period not to exceed three consecutive months. In order to apply for the ~~correction~~ adjustment the customer must file a sworn written application with the utility official within six months of the repair of the excusable defect. Customers may apply for no more than two such adjustments in any 12-month period for any one account. Such application shall contain the following matters and such other information as the utility official may require:

- (1) The name of the applicant, the address or description of the property or premises furnished water, the bill which is sought to be corrected, the date of the bill and the period of water usage covered thereby.
- (2) A statement of the date on which the excusable defect in the applicant's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.
- (3) A written acknowledgment that the applicant makes the statements shown on the application and swears to their veracity for the purpose of inducing the city to grant a reduction in the amount of the water bill for which a ~~correction~~ an adjustment is requested.

- (4) The application must clearly indicate ~~show whether or not there has been~~ any additional water consuming devices placed in use on the applicant's premises during the period covered by such bill.
- (5) Documentation shall be submitted detailing the exact nature and date of repairs to the applicant's water line.
- (6) A statement that the applicant is personally familiar with all of the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.
- (7) The customer shall execute a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and shall state that the applicant certifies that the application contains no false statements.

As used in this section the term "*excusable defect*" shall mean a rupture or leakage of the customer's water lines as may be caused by freezing weather, settlement, corrosion, wear or accident. The term does not apply to defective or out-of-repair faucets.

(b) Applications under this section shall be made on forms prescribed by the director of public works and engineering.

(c) Upon receipt of a properly completed application, the utility official shall review such application, and if he approves the same as being in compliance with this section, the applicant's bill shall be corrected by applying to the amount of water consumption shown thereon in excess of the applicant's average water usage, a rate of charge equal to one-half of the normal rate of such water usage by a customer in the applicant's classification, which reduction in rate shall be accomplished in the following manner:

- (1) The applicant's average usage shall be determined as set out in subsection 47-61(b) of this Code. If the applicant has not been a customer for a sufficient length of time to make such determination, the department shall hold the adjustment for a sufficient period of time to calculate the average water usage.
- (2) From the total water consumption shown on the bill submitted for correction, the average usage will be deducted. The resulting figure will hereafter be referred to as "excess usage."
- (3) The excess usage will be considered consumption beyond the average usage, and $\frac{1}{2}$ of the regular rate for consumption beyond the average usage (for customers in the applicants' rate classification) will be applied

to the excess usage and this will determine the amount the applicant must pay for the excess usage.

- (4) The regular rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the applicant must pay for water usage during the period covered by the corrected bill.
- (5) Provided, however, for multifamily residential customers that have established umbrella accounts, "average usage" and "excessive usage" under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

(d) If the applicant has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the applicant's average bill, the department shall credit the applicant's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the applicant can show extreme economic hardship to the utility official, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If an applicant discontinues water service before subsequent charges have depleted the credit, the department shall refund to the applicant at the time of discontinuance the remaining credit balance minus any overdue debt the applicant owes the city.

(e) Except as provided by section 47-75.2 of this article, a determination by the utility official of the amount of an adjustment ~~correction~~ to be made in an applicant's water bill in accordance with the provisions of this section shall be final.

Sec. 47-75. Adjustment of unusually large bill.

(a) Any single-family residential customer who receives a water bill for any given month that is greater than 200 percent of the average usage of the customer, the customer may request an adjustment of the bill in the manner provided in this section. Provided, that the customer must make an application within six months of receipt of such bill and only one such monthly bill out of any 12 consecutive monthly bills may be adjusted under this section. If the applicant has not been a customer for a sufficient length of time for the department to determine average usage, the department shall delay the adjustment until it can calculate the average usage. In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the

customer must state that the application contains no false statements. The application shall identify the bill and briefly state:

- (1) The reasons for the request for the adjustment;
- (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
- (3) That there have been no plumbing repairs or necessity therefor during the month for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and
- (4) Such other information as the utility official may require.

(b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall make an adjustment to correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official concludes that, in all reasonable probability, the customer was charged for more water than has the customer consumed during the month in question but is unable to actually account for such unusual quantity, the utility official shall recompute the bill using as the gross quantity 200 percent of the average monthly gross quantity applicable to the customer. Except as provided by section 47-75.2 of this article, a A determination by the utility official made in accordance with the provisions of this section shall be final.

(c) If the customer has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the customer's average bill, the department shall credit the customer's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the customer can show extreme economic hardship, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If an customer discontinues water service before subsequent charges have depleted the credit, the department shall refund to the customer at the time of discontinuance the remaining credit balance minus any overdue debt the customer owes the city.

~~(d) The provisions of this section shall be cumulative of the provisions of section 47-73 of this Code.~~

Sec 47-75.1. Exceptional circumstances adjustment.

(a) Under exceptional circumstances as identified in this section an adjustment may be made to a residential or not-for profit account of up to a total of \$4,000 for one occurrence that does not exceed a two month timeframe. To receive this credit, the following criteria will be used:

- (1) The usage must exceed the customer's average monthly usage by at least five times;
- (2) Based on an investigation conducted by the department as described in section 47-75 of this Code, the evidence clearly establishes that such increased usage was not the result of the customer's failure to take action reasonably calculated to address the problem.

(b) To calculate the adjustment, the utility official shall recompute the bill using as the gross quantity 500 percent of the average monthly gross quantity applicable to the customer.

(c) A customer may receive no more than one Exceptional Circumstances Adjustment in a twenty-four month period;

(d) The adjustment may not be combined with any other adjustment granted pursuant to this chapter for a single incident.

(e) In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill(s) and briefly state:

- (1) The reasons for the request for the adjustment;
- (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
- (3) Information on any plumbing repairs or necessity therefor during the month(s) for which an adjustment is sought; and
- (4) Such other information as the utility official may require.

(f) A customer may request a hearing regarding this section following the process set forth in section 47-70.1.

g) Except as provided by section 47-75.2 of this article, a determination by the utility official made in accordance with the provisions of this section shall be final.

Sec. 47-75.2. Water adjustment board.

(a) There is hereby created a water adjustment board. The water adjustment board shall consist of three members appointed by the mayor and approved by city council, each to serve a term of three years unless removed earlier by the mayor. At least one member of the board shall hold or have held a master plumber's license.

(b) The board's jurisdiction shall be limited to reviewing decisions of hearing officers relating to matters arising under sections 47-74, 47-75, and 47-75.1 of this article.

(c) Not later than ten days following the decision of the hearing officer under section 47-70.1 the customer may request that the decision be reviewed by the water adjustment board. The review will be based exclusively on the record of the hearing; no additional evidence or information shall be considered. The board may uphold, reverse or modify the decision of the hearing officer in conformance with the provisions of Chapter 47 of this Code but may not make any adjustment greater than allowed by sections 47-74, 47-75, or 47-75.1, as applicable, of this article. The board may be assisted by a member of the City's legal department in order to ensure proper interpretation of this chapter.