

ORDINANCE NO. 19543-02-2011

AN ORDINANCE AMENDING THE CODE OF THE CITY OF FORT WORTH (1986), AS AMENDED, CHAPTER 35 "WATER AND SEWERS"; BY ADDING ARTICLE VIII "RECLAIMED WATER"; SECTIONS 35-170 THROUGH 35-205; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A FINE OF UP TO \$2,000.00 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Water reuse is an important component of our region's future water supply;

WHEREAS, the City of Fort Worth has received authorization from the Texas Commission on Environmental Quality for the use of Reclaimed Water in a designed Service Area;

WHEREAS, on November 9, 2004, the City Council approved Resolution No. 3137 requesting financial assistance from the Texas Water Development Board for a Regional Facility Planning Grant to develop a Reclaimed Water Priority and Implementation Plan;

WHEREAS, on April 19, 2005, the City Council approved M&C G-14752 adopting an amended water conservation plan and recommending implementation of numerous best management practices, including water reuse;

WHEREAS, on May 10, 2005, the City Council approved City Secretary Contract No. 31841 (M&C C-20721) with Alan Plummer Associates, Inc. to design the Village Creek Reclaimed Water Delivery System;

WHEREAS, City Council adopted rates for Reclaimed Water Service on January 12, 2010 (M&C G-16809); and

WHEREAS, with the start-up of the Reclaimed Water System anticipated in Fiscal Year 2011, the City should adopt the terms and conditions and regulations for which reclaimed water may be provided to Users within the City's Reclaimed Water Service Area is needed.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

Section 1.

Part II of the Code of the City of Fort Worth, Texas (1986), as amended, Chapter 35 “Water and Sewers”, be further amended by adding Article VIII, “Reclaimed Water”, Sections 35-107 through 35-205 as follows:

Division I. General Provisions

Sec. 35-170. Purpose.

The purpose of this Article is to define the terms and conditions for which Reclaimed Water may be provided to Users within the City’s Reclaimed Water Service Area.

Sec. 35-171. Definitions.

In this Article:

APPROVED USE means the use of reclaimed water as authorized by law and approved through a reclaimed water agreement with the City.

APPROVED USE AREA means a site authorized by law and designated approved in a reclaimed water agreement to receive reclaimed water for an approved use.

CHAPTER 210 means Chapter 210 of Title 30 of the Texas Administrative Code, titled “Use of Reclaimed Water,” as it may be amended from time to time.

COMMINGLE means the mixing of reclaimed water with one or more liquids in the same container unit.

COMMISSION or TCEQ means the Texas Commission on Environmental Quality and its successor agencies.

CONTAINER UNIT means any container that is used to hold reclaimed water during transport from a wastewater treatment facility to an approved use area.

CROSS CONNECTION means any physical arrangement where a potable water supply is actually or potentially connected with any non-potable water system, used water system or auxiliary water supply, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp cooler, air conditioning unit, fire protection system, or any other assembly which contains, or may contain, contaminated water, domestic sewage, or other liquid of unknown or unsafe quality which may be capable of imparting

contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change over assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.

DIRECTOR means the Director of the Water Department, or the Director's designee.

DISTRIBUTION MAIN means a reclaimed water main offsite to a User which is constructed at the expense of the reclaimed water User and which connects one (1) or more User with a City of Fort Worth transmission main. Distribution mains terminate at (1) the point of connection with a User's reclaimed water meter, and (2) the point of connection with the City of Fort Worth's transmission mains. All distribution mains (including the reclaimed water meter connecting to a User's onsite reclaimed water main) accepted by the City of Fort Worth becomes the property of the City of Fort Worth at the time the distribution main is accepted.

DRAWINGS mean plans, working drawings, detail drawings, profiles, typical cross sections, or reproductions that show locations, character, dimensions, or details of work related to a reclaimed water system and its components.

OFFSITE FACILITIES means any distribution main and/or transmission main as defined herein.

ONSITE FACILITIES means any reclaimed water transport or distribution lines on the User's side of the reclaimed water meter. Onsite reclaimed water mains are built by the User and subject to permitting, the City of Fort Worth's regulations and inspection and Chapter 210 minimum standards.

POINT OF CONNECTION means a location where offsite facilities connect to onsite facilities and, unless otherwise set forth in the reclaimed water service agreement, is the point at the downstream end of the Water Department's reclaimed water service.

RECLAIMED WATER means wastewater that is collected through a City owned wastewater treatment plant(s), treated to a quality that meets or exceeds the TCEQ's authorization to the City and/or Chapter 210 requirements.

RECLAIMED WATER DISTRIBUTION SYSTEM means that system of pipes and related facilities for the distribution, use and sale of reclaimed water by the City or the City's contractor's.

RECLAIMED WATER SERVICE means the furnishing of reclaimed water to a user, through a metered connection, to onsite facilities.

RECLAIMED WATER SERVICE AGREEMENT means a standard agreement, between a user and the City that establishes the conditions and terms for delivery and use of reclaimed water.

RECLAIMED WATER SERVICE AREA means the territory within the City and within its extraterritorial jurisdiction (ETJ) and as it may later be amended.

RECLAIMED WATER TRANSPORTATION means the transport of reclaimed water by vehicles to an approved use area.

STORAGE FACILITY means an impoundment or structural tank that receives and stores reclaimed water.

TRANSMISSION MAIN means a reclaimed water main including pumping and monitoring facilities.

USER means a private party to a reclaimed water agreement with the City.

WATER DEPARTMENT means the City of Fort Worth Water Department.

Division II. Reclaimed Water Service

Sec. 35-172. Provision of Reclaimed Water Service.

(A) Upon the Director's recommendation that the provision of Reclaimed Water is feasible, the City Manager may enter into a standard Reclaimed Water Agreement for the provision of Reclaimed Water to properties within the Reclaimed Water Service Area upon application, and in compliance with this Article and all applicable laws and regulations.

(B) A person who requests Reclaimed Water Service from the City must meet all requirements provided in this Article and all minimum design, construction and operation standards for Reclaimed Water Facilities.

Sec. 35-173. Request for Reclaimed Water Service.

(A) To request Reclaimed Water Service, a person must own or manage the property for which the service is to be provided.

(B) A person must submit an application to the Director and agree to abide by all requirements for Reclaimed Water Service as described in this Article. If a person meets the requirements described herein, then that person must enter into a standard Reclaimed Water Agreement prior to the delivery of Reclaimed Water.

(C) The Director shall review each submitted application and shall make such investigation, to include site visits, as is reasonably necessary to determine if such service is feasible.

Sec. 35-174. Proof of Compliance with the Minimum Design and Operation Standards.

(A) A person making an application for Reclaimed Water Service shall submit the following information to the Director for his approval, prior to construction or retrofit of an Onsite Facility that will use or receive Reclaimed Water:

- (1) design Drawings and specifications which must be in compliance with the City's policies and regulations;
- (2) Drawings of the final installed Onsite Facility and the entire proposed use area;
- (3) proof that the User will be compliant with Chapter 12.5, Article 5, Division 3 *Cross Connection Control* and has the required backflow prevention assembly on the Reclaimed Water Service line; and
- (4) proof, as requested by the Director, that the User has sufficient Storage Facilities for the Reclaimed Water and will be in compliance with Chapter 210.

(B) The Director may issue written notice to the applicant to proceed with construction and/or retrofit upon satisfaction that the applicant meets or shall meet the minimum design and operation standards for Reclaimed Water Service.

(C) After completion of the construction or retrofit of the Onsite Facilities for Reclaimed Water Service, the applicant must make a written request for inspection by the City. The inspection shall include the Cross Connection Control and an operational test.

(D) The Director shall grant the User approval of Reclaimed Water Onsite Facilities if:

- (1) the Director determines that the applicant meets the City's minimum design and operation standards; and
- (2) the system passes the inspection and the operational tests of the Cross Connection Control.

Sec. 35-175. Cross Connections with Potable Water Mains Prohibited.

(A) It shall be unlawful for any person to make or to maintain any Cross Connection or to allow any Cross Connection to exist at any place under the control of any person.

(B) Any switchover system potentially allowing use of potable water as a temporary substitute for Reclaimed Water if Reclaimed Water is not available shall be built to ensure that Reclaimed Water does not back flow into the potable water system.

(C) To ensure the complete separation of a User's onsite potable water system from the lines supplying Reclaimed Water, the City shall inspect or cause to be inspected by a third party contractor, the User's onsite potable water system prior to supplying Reclaimed Water. Any recommended piping modifications shall be completed prior to commencement of the Reclaimed Water Service. A re-inspection shall be conducted every year or as deemed necessary by the Director.

Sec. 35-176. Distribution Mains and the Policy for the Installation of Community Facilities.

(A) Any person who desires the extension of Reclaimed Water Distribution Mains for the provision of Reclaimed Water Service shall bear all costs of extending the Distribution Main from the Transmission Main to the User's property line and comply with the City's Policy for the Installation of Community Facilities as it relates to Reclaimed Water Service. The size of such Distribution Mains are to be determined by the City, based on the User's expected Reclaimed Water consumption.

(B) Any Distribution Main construction which includes oversizing of a Distribution Main at the request of the City shall be advertised for bids or using the City's approved unit prices for water mains in the manner generally required for City construction and shall also comply with the City's Policy for the Installation of Community Facilities. All qualified bids submitted shall be publicly opened and let in the same manner as other City construction contracts are bid and let. The construction contract shall be between the User and contractor. Prior to commencement of the work under the contract for construction of an oversize Distribution Main, the contractor must have complied with the City's Policy for the Installation of Community Facilities.

Sec. 35-177. Reclaimed Water Agreement.

(A) Upon approval of the Reclaimed Water Service Onsite Facilities, the applicant must execute a standard Reclaimed Water Service Agreement with the City to receive Reclaimed Water Service.

(B) The Reclaimed Water Service Agreement shall incorporate the requirements of this Article, Chapter 210 of the TAC and other terms and conditions prescribed by the

City.

(C) Prior to delivery of Reclaimed Water, the applicant must sign the Reclaimed Water Agreement acknowledging that the applicant, as the User, is now responsible for Onsite Facilities and related activities; that the User shall comply with all applicable laws and regulations, including but not limited to Chapter 210; and shall agree to hold the City harmless from any and all claims related to the Reclaimed Water and the operation and maintenance of the Onsite Facilities and related activities.

Sec. 35-178. Discontinuance of Service.

(A) The City may discontinue Reclaimed Water Service if the User:

- (1) violates the terms of the Reclaimed Water Service Agreement or this Article;
- (2) fails to pay any and all fees assessed on the User's water bill;
- (3) tampers with any facilities related to the service, including the meter;
- (4) cross-connects the Reclaimed Water system with a potable water source;
- (5) refuses to permit an authorized City representative to enter his premises to inspect the User's Reclaimed Water system; or
- (6) performs an act that the Director determines may be detrimental to the water, wastewater, and/or Reclaimed Water system or the health and safety of the public.

(B) A User shall pay for the Reclaimed Water provided by the City until the Reclaimed Water Service is properly disconnected.

(C) A User may not reconnect a discontinued service without the Director's approval.

(D) If a User reconnects a discontinued service without the Director's approval, the Water Department may remove the service and charge an additional fee.

(E) A User may apply for reinstatement of service after paying all fees or charges assessed.

(F) The Director shall charge a fee for reinstatement of Reclaimed Water Service.

Sec. 35-179. City's Responsibilities.

(A) The City and its authorized agents, employees, or contractors are responsible for the operation, management, and control of the Offsite Facilities and the oversight of Reclaimed Water.

(B) The City shall:

- (1) obtain necessary Commission authorizations for the offsite use of Reclaimed Water under Chapter 210;
- (2) conduct Reclaimed Water quality assessments; and
- (3) have the right to take any action at such times that it deems necessary to safeguard the public health and safety.

Sec. 35-180. User's Responsibilities.

A User shall:

- (1) be responsible for constructing an onsite service line to an established Point Of Connection;
- (2) provide supervision of Onsite Facilities to assure compliance with this Article and Chapter 12.5, Article V, Division 3 (*Cross Connection Control*) of the City Code;
- (3) provide access to Onsite Facilities at reasonable times for inspections by the City;
- (4) train all Onsite Facilities operations personnel consistent with the worker training and safety plan approved by the Commission, pursuant to Chapter 210.4 (a)(4)(F), as it may be amended from time to time; and
- (5) conduct all operations related to Reclaimed Water Service in compliance with this Article.

Sec. 35-181. Use of Reclaimed Water.

- (A) Reclaimed Water may be used only for the following purposes:
- (1) turf and general landscape irrigation in compliance with Section 35-167;
 - (2) non-food processing industrial processes;
 - (3) non-residential toilet and urinal flushing;
 - (4) construction activities;
 - (5) vehicle washing;
 - (6) air conditioning cooling towers; and
 - (7) other lawful uses as authorized by the Director.
- (B) A User may use Reclaimed Water only in locations and for uses as designated and approved in the User's executed Reclaimed Water Service Agreement.
- (C) Each User of Reclaimed Water or action related to Reclaimed Water must comply with Chapter 210 and these provisions of this Article.
- (D) Reclaimed Water Service Agreements are non-transferrable to subsequent property owners and/or Users. Each User must enter into a Reclaimed Water Service Agreement for the provision of Reclaimed Water.

(E) Reclaimed Water used for cooling or processing must be discharged to a sanitary sewer, in compliance with all applicable permits and laws governing such discharges, or obtain written approval from the Director for any other proposed use, disposal or discharge of such water.

Sec. 35-182. Annual Inspection; Right of Inspection of Reclaimed Water System Onsite Facilities.

(A) The User shall conduct an annual inspection of the Onsite Facilities, either through the City Water Department or through the use of a City approved third party contractor.

(B) Additionally, the Director may inspect devices installed by the User to control the flow of Reclaimed Water and may remove, or secure such devices if installed in violation of this Article or any term of the Reclaimed Water Service Agreement.

(C) Director may inspect any Offsite or Onsite Facilities, as well as use areas and adjoining property belonging to the User and shall be granted access, without prior notice to the User during normal business hours. If access is needed by the Director during non-business hours, the User shall allow access at a reasonable time upon a prior request by the Director.

(D) The User and his/her operators shall cooperate with the City and its authorized representatives and assist in performing inspections and operational tests.

(E) Any modifications to the User's Onsite Facilities must meet all criteria in this Article and is subject to inspection.

Sec. 35-183. Identification of Reclaimed Water Onsite Facilities.

A User must identify Reclaimed Water Onsite Facilities with signs having a minimum size of eight inches by eight inches (8'x8') posted at all storage areas and on all hose bibs and faucets, in both English and Spanish, the words "Reclaimed Water, Do Not Drink" or a similar warning in accordance with Section 210.25 of Title 30 of the TAC.

Sec. 35-184. Maintenance of Reclaimed Water Service Pipes.

All persons using Reclaimed Water shall keep their Onsite Facilities in good repair, so as to prevent leakage. Maintenance is the owner's responsibility. All onsite transportation, holding and distribution facilities for Reclaimed Water shall comply with the standards of Chapter 210.

Sec. 35-185. Violations; Prohibited Uses.

(A) A person commits an offense if a person:

- (1) uses Reclaimed Water for a purpose not approved by this Article and/or authorized in the Reclaimed Water Agreement;
- (2) uses or applies Reclaimed Water for any purpose, including Approved Uses, by direct application or by windblown spray, to an area other than the Approved Use Area;
- (3) uses hose bibs or faucets on a Reclaimed Water system unless they are designed and installed to prevent connection to a standard water hose, as defined in Chapter 210.25;
- (4) allows any obstruction to impede access to meter boxes or other Onsite or Offsite Facilities;
- (5) gives, sells, trades, or transfers Reclaimed Water to another area without the prior written approval of the Director;
- (6) discharges airborne or surface Reclaimed Water from the User's property, other than to a wastewater treatment system or wastewater collection system, without notifying the City of its permit granted by TCEQ and authorizing the discharge;
- (7) interrupts Reclaimed Water Service in a portion of the City's system without the prior written approval of the Director;
- (8) stores or applies Reclaimed Water in such a way as to cause runoff or ponding. If such conditions occur, in addition to any other corrective action taken or required by law, the User shall immediately alter its method of application to prevent any further runoff or ponding;
- (9) tampers with, works on, or in any way alters or damages any part of the City's Reclaimed Water system. Tampering or work shall include, but is not limited to, opening or closing of valves, or causing of any reclaimed water to flow from the system;
- (10) Cuts into or makes any improper connection with the system;
- (11) Causes or allows their Reclaimed Water system to have any cross connections (between two (2) or more water supplies), any illegal connections or tie-ins, or any discharge of Reclaimed Water into the public wastewater system;
- (12) Takes or uses Reclaimed Water without payment; or
- (13) Removes or defaces any warnings, labels or signs pertaining to Reclaimed Water use.

Sec. 35-186. Offenses.

- (A) A person commits an offense if the person violates any provision of this Article.
- (B) An offense under this subsection is a Class C misdemeanor punishable by a fine not to exceed \$2,000.
- (C) Each instance of a violation of this Article is a separate offense.

Sec. 35-187. Rates and Charges.

(A) The retail rate for Reclaimed Water for irrigation Users shall be calculated at seventy-five percent (75%) of the first retail irrigation tier as described in Section 35-56(b). The retail rate for Reclaimed Water for gas drilling activity shall be calculated at seventy-five percent (75%) of the retail gas driller rate as described in Section 35-56(b).

(B) The City Council shall adopt a schedule of fees for reimbursement of costs of permitting and inspecting this Article VIII as follows:

- (1) application fee;
- (2) Reclaimed Water volume charge;
- (3) tap fee;
- (4) meter charges;
- (5) engineering or other professional services or inspection fees;
- (6) Reclaimed Water Front Footage Charges;
- (7) Reclaimed Water Main Capacity Charge;
- (8) reconnection fee; and
- (9) service reinstatement fee.

(C) The fee schedule may be amended from time-to-time as the City Council deems reasonably necessary.

Sec. 35-188. Inaccurate Meter Readings.

Should any meter fail to register correctly the amount of Reclaimed Water used by a User since the previous reading, the right shall exist on the part of the Water Department to charge for Reclaimed Water Service on the basis of three (3) month's average.

Sec. 35-189. Billing.

Bills for Reclaimed Water Service shall become due and payable to the City, at the office of the Water Department, City Hall, 1000 Throckmorton Street, within twenty-one (21) days from the date of the bill. If a customer has not paid the bill in full within twenty-four (24) days of the date of the bill, a five percent (5%) late fee shall be assessed against all unpaid current charges on the bill.

Sec. 35-190. No Grant or Transfer of Water Right or Ownership Interest.

The delivery of Reclaimed Water by the City and the acceptance and use of the Reclaimed Water by the User is not a transfer or an acquisition by the User of a water right or an ownership interest in any of the Offsite Facilities.

Division III. Transportation of Reclaimed Water.

Sec. 35-191. Reclaimed Water Transportation.

- (A) The City may allow for the transport of Reclaimed Water from its wastewater treatment facilities by a permitted vehicle to an Approved Use area.
- (B) Reclaimed Water shall be made available for transport by vehicle only under the terms and conditions provided herein and only to such persons as are duly permitted by the City as distributors as provided in Section 35-192.
- (C) The City shall not be obligated to provide such Reclaimed Water to distributors and may discontinue such service at any time, or limit the volume of Reclaimed Water provided and amend loading procedures and/or locations.

Sec. 35-192. Reclaimed Water Transportation Permit Required.

- (A) A Reclaimed Water Transportation permit is required to transport Reclaimed Water from a City facility to an Approved Use.
- (B) No Reclaimed Water Transportation permit shall be issued except upon application filed with the Water Department.

Sec. 35-193. Reclaimed Water Transportation Permit Application Procedures.

A person must make an application for a Reclaimed Water transportation permit and shall submit the following with the application:

- (1) A photocopy of the applicant's valid driver's license and photocopies of valid driver's license for every proposed driver of the Reclaimed Water transportation vehicles. If drivers are later hired or approved by the applicant/User, the applicant/User must submit photocopies of a valid driver's license for each new person hired or approved prior to that person transporting Reclaimed Water.
- (2) Sufficient evidence that vehicles to be permitted, are insured in at least the minimum amounts as required by state law, or are self-insured as provided by state law to secure payment of all lawful and proper claims arising out of the operation of each vehicle. The insurance shall provide for at least a thirty (30) day prior cancellation notice to the Director. A written statement from an authorized agent of the applicant's insurance carrier verifying the issuance of such insurance shall be filed with the Director before a permit is issued.
- (3) Proof of registration and good standing with the Texas Secretary of State.

- (4) Any additional information requested by the Director.

Sec. 35-194. Vehicles and Containers Requirements.

(A) Before a permit is issued, each vehicle must satisfactorily pass City inspection and meet the following requirements:

- (1) The business name, telephone number and address of applicant shall be permanently displayed on both sides of the vehicle in letters of a minimum height of three (3) inches, in a color contrasting to their background. An address is sufficient if it states city and state. If the applicant's business is not within municipality, the name of the county and state will be sufficient.
- (2) The vehicle shall display current state vehicle registration tags and inspection certificate.
- (3) The vehicle shall be clean and odor free.

(B) Each Container Unit to be used for the transportation of Reclaimed Water shall be separately permitted and must meet the following requirements:

- (1) Container Units or tanks shall have a minimum capacity of one thousand (1000) gallons, shall be capable of being closed water tight and shall be so closed during transport of Reclaimed Water; and shall be maintained in a leak-proof condition. Special permits may be issued for Container Units with a capacity of less than one thousand (1,000) gallons upon the determination by the Director that all other container unit specifications herein required have been met and that the particular container unit does not create an increased risk to the public health and safety.
- (2) Container Units shall be identified by labels or signs such as "CAUTION – RECLAIMED WATER DO NOT DRINK" in English and Spanish. Labels or signs shall be placed so that they can be seen readily by all operations personnel using the vehicle and Container Unit.

Sec. 35-195. Reclaimed Water Transportation Permit Modification.

(A) The permit holder may request a modification to the permit during the permit year to register additional vehicles or Container Units. A request to register additional vehicles or Container Units shall be made to the Director and at a minimum the permit holder shall:

- (1) ensure that all vehicles or Container Units meet the requirements of Section 35-194;

- (2) provide proof of liability insurance or self insurance for such additional vehicles in accordance with Section 35-190(B); and
- (3) pay a permit fee for each additional Container Unit in an amount set by the City Council.

(B) A permit modification may not extend the term of the original permit.

Sec. 35-196. Issuance and Display of Reclaimed Water Transportation Permit.

(A) Upon the issuance of a permit(s), the permit must be attached and clearly displayed in a secure and prominent place upon each vehicle and/or Container Unit for which the permit is issued.

(B) A permit shall be valid for one (1) year from the date of its issuance, unless the permit is suspended or revoked as provided for in this Article.

(C) A permit may not be transferred.

(D) The City Council shall establish an annual fee for the vehicle and Container Unit permits.

Sec. 35-197. Grounds for Reclaimed Water Transportation Permit Denial.

(A) The Director may deny the issuance of a permit if:

- (1) The applicant, a partner of the applicant, a principal in the applicant's business, or applicant's manager or operator has:
 - (a) within the five (5) years preceding the date of the application been convicted of a misdemeanor that is punishable by confinement and/or by a fine exceeding \$2,000.00, and which relates directly to the duty or responsibility of transporting Reclaimed Water or liquid waste.
 - (b) been convicted of a felony which relates directly to the duty or responsibility of transporting Reclaimed Water or liquid waste.
- (2) The applicant fails to provide evidence of liability insurance or self insurance as required by this Article;
- (3) The applicant had a permit, that was issued under this Article, suspended or revoked within the twelve (12) months preceding the date of the application;
- (4) The application contains a false statement;
- (5) The application or required information is incomplete;
- (6) The applicant's vehicles or Container Units submitted for inspection do not meet the criteria of Section 35-194;
- (7) The applicant has not registered his/her business with the Texas Secretary of State or is not in good standing;

- (8) The applicant has not shown proof that the applicant and the applicant's drivers are qualified under this Article; or
- (9) The applicant has violated a provision of this Article within the preceding twelve (12) months.

(B) An applicant whose permit is denied will be notified by the Director, in writing, of the denial and the grounds therefore. Such notice will be sent certified mail, return receipt requested, to the mailing address listed on the application.

(C) An applicant whose permit is denied may request a hearing for reconsideration in accordance with Section 35-203, provided such request is made within fifteen (15) calendar days of the issuance of the written notice of denial.

Sec. 35-198. Reclaimed Water Transportation Permit Conditions.

A person who has been issued a permit by the Director shall comply with the following:

(A) A permit holder shall immediately notify the Director of any management changes in the business during the time the permit is in effect, and shall provide the Director with a photocopy of the new manager's or chief operating officer's driver's license;

(B) A transporter shall deliver Reclaimed Water only to Users that have been approved by the Director and that have a Reclaimed Water Service Agreement on file with the City;

(C) The permit holder shall maintain insurance required by Section 35-193 and immediately notify the Director of any changes in its insurance carrier or policy, and insured status or self-insured status;

(D) The permit holder shall maintain all vehicles and Container Units registered under the permit in compliance with the requirements of Section 35-194;

(E) The permit holder shall notify the Director within three (3) business days when it sells or otherwise disposes of a vehicle or Container Unit registered under the permit;

(F) A permit holder shall ensure that all of the permit holder's employees collecting and transporting Reclaimed Water in vehicles and Container Units registered under the permit remain sufficiently knowledgeable of such vehicles and Container Units, and of the Reclaimed Water User locations they service, so that they are able to collect and transport Reclaimed Water in a safe and competent manner; and

(G) The permit holder shall ensure that none of the vehicles registered under a permit exceed state weight limits while transporting Reclaimed Water.

Sec. 35-199. Transporter Responsibilities.

- (A) A transporter shall not transport Reclaimed Water in a manner or in a Container Unit or vehicle which would allow for any spillage or leakage of Reclaimed Water.
- (B) A transporter shall not operate for the transportation of Reclaimed Water a vehicle or use Container Units that fail to meet the requirements of Sections 35-194.
- (C) A transporter shall deliver Reclaimed Water only to Users that have been approved by the Director through a Reclaimed Water Service Agreement.
- (D) A transporter shall not commingle Reclaimed Water with any other liquid or waste, including any other sources of non-potable water.
- (E) All Container Units used to transport any other liquid or waste, including other sources of nonpotable water, shall be cleaned and disinfected prior to being used to transport Reclaimed Water. Required cleaning and disinfection procedures will be provided by the Director. Any deviation from the required procedures must be approved in writing by the Director.
- (F) A transporter shall insure that Reclaimed Water is delivered to the approved User immediately but not later than twelve (12) hours following receipt of the Reclaimed Water from the City.
- (G) A transporter shall not discharge Reclaimed Water into a storm drain or the storm sewer system, or into any ponds, streams or rivers.
- (H) Any excess Reclaimed Water shall be disposed of by discharging to a wastewater treatment system or wastewater collection system in compliance with all applicable permits or laws for such treatment or collection systems.
- (I) A transporter shall allow the Director and any authorized peace officer to inspect vehicles and Container Units registered under a permit, upon request.
- (J) A transporter shall allow the Director and any peace officer to obtain samples of Reclaimed Water from the transporter's Container Units, upon their request.
- (K) A transporter operating under a City permit shall use a manifest system book consisting of four-part trip tickets, purchased from the Director for a fee established by the City Council, in the following manner;
 - (1) Each manifest system book shall be used exclusively for a single vehicle.
 - (2) A transporter will complete one (1) trip ticket for each individual delivery.
 - (3) The transporter shall sign the original part of a trip ticket and request the wastewater treatment plant supervisor, or his designee, to do the same at the time of Reclaimed Water collection. The transporter shall leave the

first copy (yellow) of the trip ticket with the wastewater treatment plant supervisor.

- (4) The transporter shall have the User sign the original part of the trip ticket at the time the Reclaimed Water is delivered, and shall leave the second copy (pink) of the trip ticket with the User.
- (5) The transporter shall retain the third copy (green) of the trip ticket for the transporter's own records.
- (6) The transporter shall deliver to the Director all completed original trip tickets no later than the tenth (10th) day of the month following the month in which they were completed.
- (7) The transporter shall retain its copies of all trip tickets for a period of five (5) years, and shall make such copies available to the Director, upon request, for inspection at all reasonable times.

Sec. 35-200. Transportation Offenses.

(A) A person commits an offense if the person engages in the transportation of Reclaimed Water and fails to comply with any provision of this Division and shall be subject to the same provisions of Section 35-186.

(B) A person commits an offense if the person operates or causes to be operated a vehicle transporting Reclaimed Water in Container Units not permitted to transport Reclaimed Water.

(C) A person commits an offense if the person operates or causes to be operated a vehicle transporting Reclaimed Water and fails to display to the Director or any peace officer upon demand, a copy of a valid transportation permit issued pursuant to this Article.

Sec. 35-201. Grounds for Suspension or Revocation of Reclaimed Water Transportation Permit.

The Director may suspend a permit for up to six (6) months or may revoke a permit if the Director determines that:

(A) The permit holder, a partner of the permit holder, a principal in the permit holder's business, permit holder's manager or operator, or an officer of permit holder:

- (1) has within the five (5) years preceding the date of the hearing been convicted of a misdemeanor that is punishable by confinement and/or by a fine exceeding \$500.00, and which relates directly to the duty or responsibility in operating a Reclaimed Water transportation business; or
- (2) has been convicted of a felony which relates directly to the duty or responsibility in operating a Reclaimed Water transportation business.

(B) The permit holder failed to comply with any of the permit conditions stated in Section 35-198;

(C) The permit holder or any agent or employee thereof failed to use the manifest system book in compliance with this Article, or to maintain manifests for five (5) years, or to allow the Director to inspect the manifests;

(D) The permit holder or any agent or employee thereof improperly disposed of Reclaimed Water;

(E) The permit holder or any agent or employee thereof Commingled Reclaimed Water with any other liquid or waste, including other sources of nonpotable water, in a City-permitted Container Unit;

(F) The permit holder or any agent or employee thereof refused or failed to allow the Director or a peace officer to inspect a Reclaimed Water transportation vehicle or Container Unit or obtain Reclaimed Water samples from a Container Unit; or

(G) The permit holder or any agent or employee thereof, within the twelve (12) months preceding the hearing, was convicted of violating this Article.

Sec. 35-202. Suspension or Revocation of Reclaimed Water Transportation Permit; Request of a Hearing.

(A) The Director shall issue written notice to the permit holder of the grounds for suspension or revocation of the permit. Such permit shall be suspended and or revoked immediately upon receipt of the notice.

(B) Subject to the restrictions set forth in this Section, a permit holder may appeal to the Director for reconsideration of the suspension or revocation and request a hearing.

(C) The request for appeal shall be in writing and set forth, in detail, the grounds upon which the hearing is requested.

(D) The request for appeal shall be filed with such Director within fifteen (15) business days of the permit holder receiving the notice from the Director. The notice shall be deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.

(E) Failure to submit a timely written request for appeal shall be deemed to be a waiver of any further right to reconsideration.

Sec. 35-203. Hearings.

- (A) Within a reasonable time, the Director shall set a date for a hearing on the suspension or revocation of the permit.
- (B) Written notice of the hearing shall be served on the petitioner at least fifteen (15) calendar days prior to the hearing. Notice shall be served in person or by United States certified mail, return receipt requested.
- (C) Notice shall specify the date, time and place of the hearing and shall be deemed received five (5) calendar days after it is placed in a mail receptacle of the United States Postal Service.
- (D) For purposes of this Section, the Director shall be empowered to administer oaths and to promulgate procedural rules for the conduct of the hearing.
- (E) Decisions shall be based on a preponderance of the evidence and the petitioner shall have the burden of proof to demonstrate that the determination is not true and valid or should not otherwise be upheld.
- (F) The Director and/or his designee shall act as the hearing officer.
- (G) After the conclusion of the hearing, the Director shall make written findings and shall issue a written decision within five (5) business days.
- (H) The decision of the Director shall be final.

Sec. 35-204. Responsibilities for Users of Reclaimed Water Transportation.

- (A) A User of Reclaimed Water delivered by vehicle shall submit a Reclaimed Water Service application and obtain approval for Reclaimed Water Service and comply with requirements of this Article.
- (B) A User of Reclaimed Water shall only accept delivery of Reclaimed Water by a permitted vehicle and Container Units.
- (C) A User of Reclaimed Water delivered by vehicle shall sign the original of a City of Fort Worth trip ticket prepared by a permitted transporter for all Reclaimed Water received by the User's from such transporter.
- (D) The User shall note any significant discrepancies on each copy of the trip ticket.
 - (1) Trip ticket discrepancies: differences between the quantity of Reclaimed Water on the trip ticket and the quantity of Reclaimed Water the User actually received.

- (2) A significant discrepancy in quantity is any variation greater than fifteen percent (15%), measured in gallons.

Sec. 35-205. Additional Reclaimed Water Transportation Permit Holder Responsibilities.

(A) A permit holder shall immediately notify the Director in writing when the Reclaimed Water Transportation business is assigned, transferred, sold, ceases to operate as registered with the Secretary of State, or ceases to operate for any other reason.

(B) In addition to the written notification required in subsection (A), the permit holder shall immediately deliver to the Director:

- (1) All completed original trip tickets in permit holder's possession;
- (2) All unused trip tickets in permit holder's possession; and
- (3) Permit holder's permit(s).

(C) A permit holder commits an offense if the permit holder fails to provide notice to the Director as required by this Section.

(D) A permit for the transportation of Reclaimed Water shall be invalid upon the assignment, transfer, sale or cessation of operation as stated above.

Section 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provision of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

Section 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality

shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 5.

All rights and remedies of the City of Fort Worth, Texas are expressly saved as to any and all violations of the provisions of the ordinances amended and repealed in Section 1, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

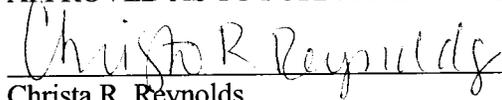
Section 6.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption and Section 4 of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 2, Chapter XXV, of the Charter of the City of Fort Worth, Texas and by Section 52.013, Texas Local Government Code.

Section 7.

This ordinance will take effect upon adoption by the City Council of Fort Worth.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in cursive script that reads "Christa R. Reynolds". The signature is written over a solid horizontal line.

Christa R. Reynolds
Sr. Assistant City Attorney

Adopted: February 8, 2011

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 2/8/2011 - Ordinance No. 19543-02-2011

DATE: Tuesday, February 08, 2011

REFERENCE NO.: G-17201

LOG NAME: 60RECLAIMED WATER ORD

SUBJECT:

Adopt Ordinance Creating Article VIII, Reclaimed Water to Chapter 35, Water and Sewers in the City Code

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance which defines the terms and conditions for which Reclaimed Water may be provided to Users within the City's Reclaimed Water Service Area and the regulation for such use of Reclaimed Water.

DISCUSSION:

Water reuse is an important component of our region's future water supply. The 2006 Region C Water Plan calls for 28 percent of future water supply to come from conservation and reuse. In order to advance water reuse within the Fort Worth service area, on November 9, 2004, the City Council approved Resolution No. 3137 requesting financial assistance from the Texas Water Development Board (TWDB) for a Regional Facility Planning Grant to develop a Reclaimed Water Priority and Implementation Plan. On April 19, 2005, the City Council approved M&C G-14752 adopting an amended water conservation plan and recommending implementation of numerous best management practices including water reuse.

On May 10, 2005, the City Council approved City Secretary Contract No. 31841 (M&C C-20721) with Alan Plummer Associates, Inc., (APAI) to design the Village Creek Reclaimed Water Delivery System and to assist with development of wholesale contracts for service to the Cities of Arlington and Euless and the DFW International Airport. City Council authorized execution of contracts with these entities for reclaimed water service on December 12, 2009 (M&C C-23965) and then adopted rates for the service on January 12, 2010 (M&C G-16809).

With the start-up of the reclaimed water system anticipated in Fiscal Year 2011, the City should adopt the terms and conditions and regulations for which reclaimed water may be provided to Users within the City's Reclaimed Water Service Area as needed. These provisions will help to ensure that the City remain in compliance with the Texas Administrative Code Chapter 210 regulations, the City's 210 authorization by the Texas Commission on Environmental Quality and maintain good stewardship of this important water resource. These provisions will be adopted as Article VIII, Reclaimed Water of Chapter 35, Water and Sewers.

Division 1. General Provision describes the purpose of the ordinance and provides relevant definitions of terms.

Division 2. Reclaimed Water Service outlines the provisions of reclaimed water service, the responsibilities of the City and authorized users of reclaimed water. The division details the administrative process regarding application for reclaimed water service, execution of a reclaimed water service agreement, discontinuance of service, rates and charges, metering, identification of facilities, inspection

information, compliance with design and operation standards, ownership information and billing and appropriate uses of reclaimed water. Prohibited uses and offenses are also described in Division 2.

Division 3. Transportation of Reclaimed Water describes requirements for the transportation of reclaimed water. Reclaimed water will typically be delivered to users through a pipeline distribution system. However, certain uses (such as natural gas drilling operations) may require the transportation of reclaimed water in vehicles and containers. This ordinance will require a permit and vehicle requirements to be able to lawfully transport reclaimed water.

FISCAL INFORMATION / CERTIFICATION:

The Financial Management Services Director certifies that this action will have no material effect on City funds.

FUND CENTERS:

TO Fund/Account/Centers

FROM Fund/Account/Centers

CERTIFICATIONS:

Submitted for City Manager's Office by:

Fernando Costa (6122)

Originating Department Head:

S. Frank Crumb (8207)

Additional Information Contact:

Skipper Shook (8402)

CITY COUNCIL AGENDA



DATE: 2/8/2011 **REFERENCE NO.:** G-17201 **LOG NAME:** 60RECLAIMED WATER ORD
CODE: G **TYPE:** NON-CONSENT **PUBLIC HEARING:** NO
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Submitted for City Manager's Office by:

Fernando Costa (6122)

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ATTACHMENTS

60RECLAIMED WATER ORD.doc