

ORDINANCE NO. 05162023

AN ORDINANCE OF THE CITY OF TOYAH, TEXAS, AMENDING THE UTILITIES AND BACKFLOW PREVENTION ORDINANCE, TO ADD 1.10.01 UTILITIES AND BACKFLOW PREVENTION, SUBSECTION (c) – (e) RELATED TO REGULATIONS CONCERNING WITH SELLING, RESELLING, GIVING OR FURNISHING OF WATER INSIDE OR OUTSIDE THE CITY LIMITS; PROVIDING SEVERABILITY, EFFECTIVE DATE AND PENALTY; PROVIDING OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

Whereas, the City of Toyah (the “City”) provides water services to residents of the City within the city limits and only by agreement with those outside the city limits;

Whereas, it has been brought to the City Council’s attention that there has been some mis-use of the water services within and possibly without the City limits; and

Whereas, in order to protect the health, safety and welfare of those who receive – either through sale, resale, gift or otherwise being furnished water by a current customer of the city to another within the city limits or by a current customer of the city to another outside the city limits may pose risk to the recipient.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOYAH, TEXAS, THAT:

Section 1. Findings of Fact. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 2. Amendment to Add New Subsections (c) – (e) to 1.01.010, Unlawful provision or use of service. Ordinance 1.01.010, a copy of is attached hereto as Exhibit “A”, is hereby amended to add new subsections (highlighted) related to and prohibiting the sale, resale, gifting or furnishing of water by a current customer/consumer within the City to anyone within and only with a permit to anyone outside the City limits.

Section 3. Amendment of Conflicting Ordinances. The above-referenced sections of the Code are hereby amended as provided in this Ordinance. All parts of ordinances in conflict herewith are hereby amended to the extent of such conflict only. To the extent of a conflict between this Ordinance and another ordinance of the City, this Ordinance shall control.

Section 4. Savings Clause. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting utilities and utility fees 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 5. Penalty. Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith to Exhibit “A,” or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and, upon conviction, shall be liable for a fine not to exceed the sum of Five Hundred Dollars (\$500.00), unless it relates to health, safety and welfare which shall not exceed One Thousand Dollars (\$1,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. Any person who violates this article is subject to suit for injunctive relief as well as prosecution to seek penalties for the violations.

Section 6. Severability. 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 section, paragraph, sentence, clause or phrase of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid section, paragraph, sentence, clause or phrase. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

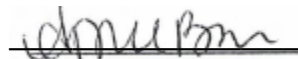
Section 7. Effective Dates. This Ordinance shall be in full force and effect after final passage and publication in the manner required by the Texas Local Government Code.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED AND APPROVED on this 16th day of May, 2023.

ATTEST:

CITY OF TOYAH, TEXAS



City Secretary

_____/s/_____
Mayor Hoyt

ARTICLE 1 GENERAL PROVISIONS - WATER

Sec. 1.01.001 Failure to make application for service; payment of charges after disconnection of service

Permit for connection to water main.

(a) All connections to the water mains of the City shall be made only under the supervision of city personnel, and it shall be unlawful for any person to excavate around such water mains or make a connection thereto without first having received a permit from the city secretary.

(b) Should any person move into any premises supplied with an existing connection to utilities from the city, without making an application for a permit in the manner provided for by the city, such person shall become responsible for all utility service usage from the date of the last payment made on such account previous to his occupying said premises, and the failure to pay same shall be cause for disconnecting such service until the amount due is paid.

(c) Where an application for a permit is accepted for utility service for business or residential purpose it shall be considered the residence or business of the applicant, and should utilities be disconnected for the nonpayment of bills or for other infractions of this article, no new application will be accepted from the owner, agent, or any other person to continue service in such place or any other place under any other name, so long as such place or any other place is occupied by the original applicant as the residence or place of business of same, until after all bills and penalties, damages to utility equipment or other service charges have been paid in full or some form of agreement has been reached.

Sec. 1.01.002 False statements in application for service

(a) If any person shall make false statements in the application for utility service, he shall be deemed guilty of a misdemeanor.

(b) Any consumer who shall discontinue the place of business or move from his residence and leave a bill for utility services or any other services due the city, [and] shall make application for service at some other address, either under his own name or under a different name, without stating to the office the old address and name under which water or sewer services were used at the address where there is a bill due, shall be guilty of a misdemeanor.

Sec. 1.01.003 Deposit

(a) At the time of making application for utility services to be provided by the city, a deposit shall be made with the city in the amount as provided for in the fee schedule found in appendix A of this code. When and if it is found that the deposit required and collected in accordance herewith is not sufficient to protect the city from losses that may occur over a period of two (2) months, the city may require an additional cash deposit.

(b) If a city utility customer moves to a new location, the deposit held on the previous location can be transferred; however, the customer must pay the difference between the amount of the old

deposit and the current deposit required for service. No deposit may be used for two accounts simultaneously.

(c) If a city utility customer is disconnected for nonpayment on more than one occasion, the deposit must be brought up to the amount required of new customers.

(d) Deposits on utility accounts will be returned when the customer closes their utility account and the account is paid in full. Deposits will be applied to the last bill for the account and the remainder of the deposit not used to pay the bill will be returned to the customer within a month of the final bill being sent out.

Sec. 1.01.004 Charges to accrue until notice is given to discontinue service

All rates and charges for services to a consumer's premises shall accrue and be charged against the consumer until such time as notice is given to the city offices by the consumer, or his or her duly authorized agent, to discontinue all services to the consumer's premises.

Sec. 1.01.005 Occupant liable for unpaid bills

Where two or more families occupy the same house or apartment, and the utility account is in the name of one, and the one in whose name the account stands moves away, the remaining family is still responsible for the unpaid utility bills.

Sec. 1.01.006 Due date for payment of accounts; delinquency penalty

(a) The city will send out utility bills no later than the 1st of the month. All utility accounts must be paid on or before the tenth (10th) of the month following the meter reading date; however, if the tenth (10th) of the month shall fall on a Friday, Saturday, Sunday, or an official city holiday, any payment received in the city office prior to 8:00 a.m. on the next business day will be considered a timely payment. Also, any payments received after the 10th of the month that are postmarked on the 10th or earlier will be considered timely.

(b) The city shall impose a ten percent (10%) penalty on all utility accounts which remain unpaid on the tenth (10th) of each month following delinquency as defined above.

Sec. 1.01.007 Failure to pay charges

(a) On the failure to pay in full all utility accounts when due, the city, acting through any authorized representative of the city, for and on behalf of the city, shall have the authority to order such services disconnected until all delinquent utility and delinquency charges due from the delinquent user have been paid to the city.

(b) A late notice will be sent for accounts not paid by the due date stating that the account will be disconnected due to nonpayment approximately 10 days after the due date. This date may vary slightly due to the 10th day of the month falling on a weekend or holiday. An administrative fee

as provided for in the fee schedule found in appendix A of this code shall be charged all accounts not paid when due.

(c) No service shall be furnished to any person who is delinquent in the payment of any bill for any utilities furnished on the premises to which utility service is desired or to any other premises in the city. Utility services can be disconnected at any and all residences or businesses under the control of the person who is delinquent.

Sec. 1.01.008 Insufficient funds charge

There is hereby established a service charge, which will be the maximum amount allowed by law, as provided for in the fee schedule found in appendix A of this code, which shall be levied and assessed by the city when an account for any utility services provided, furnished, or sold by the city or an account rendered or collected for the city is paid or satisfied by making, drawing, uttering or delivery of any check, draft, or order for the payment of money on any bank, person, firm, or corporation at a time when the maker, drawer, or payer thereof does not have sufficient funds in or on deposit with such bank, person, firm, or corporation for the payment in full of such check, draft, or order, as well as all other outstanding checks, drafts, or orders upon such funds then outstanding, which said service charge shall be billed to and become a part of the account for which any check, draft, or order was given in satisfaction therefor. Upon failure to pay this charge and any other amount due on the account by the date stated in the notice sent to the customer, the city shall have the right and authority to order any utility services provided by the city discontinued until such charges are paid in full to the city. A utility account that has had two returned checks, drafts, or orders of payment in the course of twelve months shall no longer be allowed to present checks or drafts in payment of the utility bill for twelve months following the second returned check. Such accounts shall be required to pay in the form of cash, money order, cashier's check, debit card or credit card.

Sec. 1.01.009 Authority to disconnect service; right of entry for purpose of inspecting equipment

(a) The city, acting by or through any duly authorized representative and/or agent of the city, shall be authorized to disconnect any utility services to the premises of any person found violating any of the terms or provisions of this article.

(b) A duly authorized representative and/or agent of the city shall have the right at all reasonable times to go upon privately owned property for the purpose of inspection of utility service lines or connections and drains and all other related lines or equipment and, upon refusal of the right to make such inspections, any duly authorized representative and/or agent of the city shall have the right to disconnect from such privately owned property all utility connections.

Sec. 1.01.010 Unlawful use of service; tampering with lines

(a) Tampering with lines. Any person who shall tamper with, alter, change, bypass, divert or connect to any water or sewer mains, electric lines, or any utility service lines owned by the city without first obtaining permission or consent of the city shall be guilty of a misdemeanor. Each

day such action continues shall constitute a separate violation. Any person causing any health, safety, welfare or contamination issues by their actions of connecting to any utility service lines shall be guilty of a misdemeanor but the fines that may be imposed may be \$1,000 a day for each day it continues.

(b) Unlawful use of service or connection to service line. It shall be unlawful for any person to use water from the water mains of this city, to connect to any sewer service line, or to connect to any electric lines of the city without an application or permit, or to turn on the city water or electricity for the use on his premises, after the same has been, for any reason, cut off, or before the same has been turned on by the city, without first having secured the application, paid the deposit as required by this article, and paid any amount due on the utility account.

State law reference—Criminal mischief by tampering with public communications, public water, gas, or power supply, V.T.C.A., Penal Code, sec. 28.03.

ARTICLE II – GENERAL PROVISIONS SEWERS

Sec. 2.01.001 Obstructions or stoppages in service line

(a) It shall be the duty of every owner of any building, dwelling, lot, house, premises and/or property to which the sewer system is connected to keep and maintain the service connection, pipes and conduits from the appliance connections on such premises to the main connection with said sewer system free from all stoppage, and from all obstructions of every nature, and to promptly remove all obstructions and stoppages therefrom, so that sewage shall at all times flow freely from such appliance connection or connections through said service connection into the main line of the sewer system, regardless of property lines.

(b) It shall be the duty of every owner of any building, dwelling, lot, house, premises and/or property to which the sewer system is connected, if and when it becomes necessary in order to clear, repair, replace and/or maintain the service connection on such premises to said main connection, to bear all expense of labor and material for repairing, maintaining, clearing and/or replacing said line or pipe, together with the expense and liability for repairing and replacing all streets and sidewalks which have been dug up and displaced by reason thereof, and to maintain all barriers, warning signs, flares and danger signals during the progress of said work. All such repairing, maintaining, clearing and/or replacing of such line or pipe shall be with the permission of and under the direct supervision and inspection of the public works supervisor of the city, who shall charge no fee for such inspection.

Sec. 2.01.002 Prohibited discharges

(a) Discharge of unpolluted water to sanitary sewer. No person shall discharge, or cause to be discharged, any stormwater, groundwater, roof runoff, subsurface drainage, downspouts, yard drains, yard fountains and ponds, lawn sprays, water from swimming pools or unpolluted industrial water into any sanitary sewer in the system.

(b) Prohibited substances. No person shall discharge, or cause to be discharged, into any public sewer, any of the following described substances, material, waters, or wastes:

(1) Any liquid or vapor having a temperature greater than 122 degrees F (50 degrees C).

(2) Any toxic, corrosive, flammable or explosive liquid, solid or gas, such as gasoline, kerosene, phenols, benzene, naphtha, etc.

(3) Any water or wastes which contain wax, greases, oil cleaning solvents, mineral oils or other substances which will solidify at temperatures between 32 degrees to 150 degrees F.

(4) Any garbage that has not been properly comminuted or shredded. (The installation and operation of any garbage grinder equipped with a motor of three-quarters horsepower or greater shall be subject to the review of the city administrator or his designee.)

(5) Any solid or viscous substances, such as ashes, cinders, sand, mud, gravel, straw, tar, asphalt, ceramic wastes, shavings, sawdust, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, or bulk solids.

(6) Any heavy metals such as those listed below:

Antimony	Lead
Arsenic	Manganese
Barium	Mercury
Beryllium	Molybdenum
Bismuth	Nickel
Boron	Rhenium
Cadmium	Selenium
Chromium (Hexa)	Silver
Chromium (Tri)	Strontium
Cobalt	Tellurium
Copper	Tin
Iron	Uranyl ion
	Zinc

ARTICLE 3. SERVICE OUTSIDE CITY

Sec. 3.01.001 Generally

(a) The City's water and sewer systems are a municipally owned public utility established for the purpose of furnishing a water supply and sewer services for domestic residential use and limited commercial use, within the city boundaries.

(b) Unless specifically authorized by city council resolution, no water or sewer service shall be extended to new areas outside the city boundaries; provided, however, that any person, firm or corporation owning or occupying property currently on an existing water or sewer line outside the city boundaries shall be entitled to continue to receive service.

(c) Water and sewer service outside the city boundaries but within the city's extraterritorial jurisdiction may be served at the discretion of the city council through negotiations with prospective customers, Such negotiations and discussions shall be based upon whether the property owners are able to be annexed, have sufficient property for wells and/or septic systems, ability to cover such costs associated with extension of lines to the property, and ability to pay such other fees, deposits, charges and rates associated with provision of services.

ARTICLE 4 BACKFLOW AND CROSS-CONNECTION CONTROLS

Sec. 4.01.001 Purpose

The city is responsible for protecting the drinking water supply from contamination or pollution, which could result from improper private water distribution system construction or configuration.

Sec. 4.01.002 Restrictions

The following unacceptable practices are prohibited by state regulations:

- (1) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.
- (2) No cross connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.
- (3) No connection, which allows water to be returned to the public drinking water supply, is permitted.
- (4) No pipe or pipefitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection, which provides water for human use.
- (5) No solder or flux, which contains more than 0.2% lead, can be used for the installation or repair of plumbing at any connection, which provides water for human use.

Sec. 4.01.003 Requirements

Authority Having Jurisdiction, Enforcement. The City shall have the responsibility for maintenance of the backflow prevention and customer service inspections program, and for enforcement of this section. All customers shall have until January 31, 2023 to come into compliance with the use of backflow preventers and to have their inspections done and reports submitted to the public works department.

The following are the requirements of the city water system and the customer:

- (1) A signed customer service agreement will be maintained by the city water system as long as the customer or the premises is connected to the city water system.
- (2) The customer shall allow the property to be inspected for possible cross connections and other potential contamination hazards. These inspections shall be conducted by the city water system or its designated agent prior to initiating new water service; when there is reason to believe that cross connections or other potential contamination hazards exist; or after any major changes to the private water distribution facilities. The inspections shall be conducted during the city water system's normal business hours.
- (3) The city water system shall notify the customer in writing of any cross-connection or other potential contamination hazard, which has been identified during the initial inspection or the periodic reinspection.
- (4) The customer shall immediately remove or adequately isolate any potential cross-connections or other potential contamination hazards on his premises.
- (5) The customer shall at his expense, properly install, test, and maintain any backflow prevention device required by the city water system. Copies of all testing and maintenance records shall be provided to the city water system. All health related premises shall obtain certificates of inspection annually and provide said certificates to the city water system. All nonhealth related premises shall obtain certificates of inspection once every five (5) years and provide said certificates to the city water system.

Sec. 4.01.004 Disconnection and Reconnection

1. Authority to Disconnect Service. If a person violates this section, the city shall, upon due notice to the water customer, be authorized to discontinue water service to the premises where such violation(s) occurred.
2. Reconnection. Upon request to open or reinstitute water service at a location previously discontinued due to violation(s) of this section, proof of a current customer service inspection as described above shall be provided. Services disconnected under such circumstances shall be restored only upon receipt of the inspection report indicating that the previous violation(s) have been remedied and received payment of a reconnection charge, consistent with the fee and charge schedule, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same violation shall not be repeated while this section is in effect. Compliance with this article may also be sought through injunctive relief.
 - (o) Penalty. Notwithstanding any other penalty provisions herein, any person who shall intentionally, knowingly or with criminal negligence violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500.00 for the first offense, in an amount not to exceed \$1,000.00 for the second offense, and in an amount not to exceed \$2,000.00 for the third and subsequent offenses. Each day constitutes a separate offense.

Sec. 4.01.005 Enforcement

If a customer fails to comply with the requirements, the city shall, at its option, either terminate service or install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the customer. Reconnection to the City's water system without compliance with this section is unlawful and upon conviction, such person causing any health, safety, welfare or contamination issues by their actions shall be guilty of a misdemeanor and the fines that may be imposed may be \$1,000 a day, with each day such action continues constituting a separate fine.

(a) Except for mobile home parks, apartment complexes, and housing authority premises, no more than one occupancy unit shall be permitted to be attached to one water meter. An occupancy unit for the purposes of this article shall mean one residential or one commercial unit. For purposes of this article, each lease space within a duplex or triplex shall be considered a separate residential unit.

(b) Where connection to the city sanitary sewer is not available, the structure may be served by an on-site sewage facility which is designed in accordance with applicable Texas Commission on Environmental Quality regulations and has received all necessary permits. However, if that on-site sewage facility fails at a future date when sanitary sewer service is available to the structure, the structure must be connected to the city's sewer system.

(c) Before any person or firm shall be issued a building permit for new construction or addition to existing structures, or for moving into the city limits a pre-built or partially built structure, the applicant for permit must first agree in writing to provide for connections to the city water supply and sanitary sewer system if such are available in the area.

(d) It shall be unlawful for any person to reside in, lease for human habitation, or conduct business at a building or structure designed for human habitation or occupancy within the city limits where there is no sanitary toilet meeting applicable state health standards available and accessible to residents or persons conducting business on the premises.

(e) It shall be unlawful for any person to maintain on his or her property a dry closet or privy for the receiving of human waste, or to dispose of such substances in any manner other than a properly sewered water closet.

(f) It shall be unlawful for any person to connect a recreational vehicle to city water and sewer services.