

Ordinance #2008 - 05

ADDENDUM TO ORDINANCE #2005-16 OF THE CITY OF RIESEL, TEXAS ADDING TO SAID WATER AND SEWER ORDINANCE A PROVISION REQUIRING THAT ACTIVE WATER AND/OR SEWER CUSTOMERS OF THE CITY OF RIESEL PAY THE MONTHLY BASE RATE FOR SUCH SERVICES REGARDLESS OF WHETHER THERE HAS BEEN WATER OR SEWER USAGE FOR THE MONTH(S), AND PROVIDING FOR A FEE TO BE PAID FOR INACTIVE METERS, OR ALTERNATIVELY, FOR INACTIVE METERS TO BE REMOVED.

WHEREAS, the City of Riesel incurs costs relating to meters and lines regardless of whether a customer uses water or sewer services; and

WHEREAS, the City of Riesel incurs restrictions on its water and sewer systems based on the number of meters in service, whether or not a customer is using water and sewer services of the City of Riesel; and

WHEREAS, it is the intent of the City of Riesel Council that all customers having active water and/or sewer accounts with the City of Riesel pay the base rate at a minimum, regardless of usage; and

WHEREAS, it is the intent of the City of Riesel Council that all customers having a meter, as defined in this Ordinance, be pulled if it prevents service to an applicant for water service due to regulatory constraints or sound water delivery practices relating to line capacity; and

WHEREAS, the City Council finds this Addendum to the City's Water and Sewer Ordinance to be in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, McLENNAN COUNTY, TEXAS THAT:

1. Subsection 5 of Section 1.01 of Ordinance #2005-16 as added by amendment by Ordinance #2008-02, is amended and clarified to read as follows:

(5.) Active Water Meters with No Usage.

The Monthly Base Rate set forth above shall be paid each month by customers having an active water account for the applicable meter even of there is no water usage for the month(s) from that meter. Failure to pay the Monthly Base Rate will result in the disconnection of water service as set forth in Section 8.03 of this Ordinance, and a \$25.00 reconnect fee will be charged to restore service in accordance with Section 8.03 of this Ordinance. In addition, a customer who has had an inactive meter disconnected for failure to pay the Monthly Base Rate will be required to pay a water deposit in accordance with Section 3.01(2)(c) of this Ordinance to have the meter reconnected if there is not a water deposit associated with that meter on deposit with the City.

2. Subsection 3 of Section 2.01 of Ordinance #2005-16 as added by amendment by Ordinance #2008-02, is amended and clarified to read as follows:

(3) Active Sewer Accounts with No Usage.

The Monthly Base Rate set forth above shall be paid each month by customers having an active sewer account for the applicable meter even of there is no sewer usage in the month(s) from that meter. Failure to pay the Monthly Base Rate will result in disconnection of sewer service as set forth in Section 8.03 of this Ordinance, and a \$25.00 reconnect fee will be charged to restore service in accordance with Section 8.03 of this Ordinance. In addition, a customer who has had an inactive meter disconnected for failure to pay the Monthly Base Rate will be required to pay a sewer deposit in accordance with Section 3.01(2)(c) of this Ordinance to have the meter reconnected if there is not a sewer deposit associated with that meter on deposit with the City.

3. Section 1.01 of Ordinance #2005-16 is AMENDED to ADD Subsection 6, which provides as follows:

(6) Inactive Water Meters.

a.) An Inactive Water Meter is a water meter for which that is no active water account with the City of Riesel, and no authorized water usage for the previous 12 months.

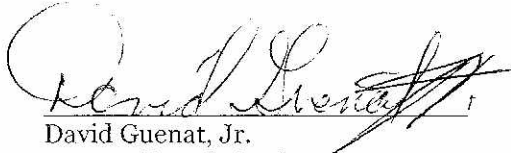
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b.) In the event that the existence of an Inactive Water Meter on a water line prevents service to an applicant for water service from the line due to regulatory constraints or sound water delivery practices, the Inactive Meter will be pulled by the City on five (5) days' notice to the owner of the property intended to be served by the Inactive Meter. Any deposits held by the City with respect to the Inactive Meter will be refunded to the person who paid the deposits within 10 days after the meter is removed.

The determination of whether an Inactive Meter prevents service due to regulatory constraints or sound water delivery practices will be made by the City in consultation with its contracted engineer.

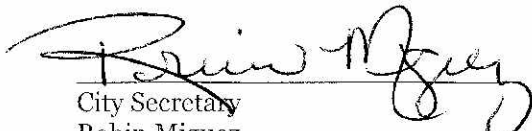
4. Except as set forth above, the remainder of Ordinance #2005-16 shall remain unchanged and in full force and effect.

ENACTED BY THE RIESEL CITY COUNCIL on this 2nd day of September, 2008.



David Guenat, Jr.
Mayor, City of Riesel

Attested:



City Secretary
Robin Miguez

After reviewing the regulation submitted by the citizens at the meeting (30 T.A.C. § 291.85), I think I see where the confusion is coming from. Section 291.85 does refer to a “Retail Public Utility”. A “Retail Public Utility” for purposes of Chapter 291 *is* defined to include a municipality or political subdivision. *See* 30.T.A.C. § 291.3. If you stopped there, it would appear that the City would be subject to § 291.85. However, § 291.85 is found in Subchapter E of Chapter 291, entitled “Customer Service and Protection”. That subchapter is applicable only to a “water and sewer utility”, which does not include municipalities. *See* 30 T.A.C. §§ 291.80 and 291.3. Indeed, the **Water Code** specifically provides that the TCEQ is not given “power or jurisdiction to regulate or supervise the rates or services of a utility owned and operated by a municipality”, either directly or through a municipal-owned corporation. *See* § 13.042(f), **Water Code**. Also note that the provision cited by the citizens refers to the “utility’s approved tariff”, and, of course, municipal water systems do not operate under tariffs.