

Sec. 55-159.1. Non-mandatory drought surcharge exemption fee.

- (a) *Establishment of non-mandatory "drought surcharge exemption fee" effective October 1, 2018.* Large-volume industrial customers may voluntarily pay a non-mandatory and non-refundable "drought surcharge exemption fee" or "fee" of ~~twenty five cents (\$0.25)~~ thirty-one cents (\$0.31) per one thousand (1,000) gallons of water per month to be exempt from the applicable allocation surcharges of city Code section 55-154 during the month of billing. The city will begin to charge the fee as of October 1, 2018 to all large-volume industrial customers. The fee will be charged with the large-volume industrial customer's regular monthly water bill which is due as stated on the bill. By payment of the fee, the large-volume industrial customer has determined that the fee is fair, just, and reasonable.

Note(s)—For purposes of this section 55-159.1 the term "large-volume industrial customer" shall mean a utility customer who uses water in minimum quantity of one hundred thousand (100,000) gallons a day in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric, but does not include agricultural use.

- (b) *Notice of opt-out.* A large-volume industrial customer may opt out of the drought surcharge exemption fee (or "fee") by providing written notice to the city manager. A large-volume industrial customer is deemed to have opted out of the fee as of the date payment of the fee remains delinquent after notice and opportunity to cure. A large-volume industrial customer who has opted out of said fee is subject to aforementioned allocation surcharges of city Code section 55-154 in addition to compliance with all applicable city ordinances.
- (c) *Request to opt back into the drought surcharge exemption fee or "fee".* There is no right nor entitlement to opt back into the fee. The city manager or designee retains sole discretion to determine whether granting large-volume industrial customer's request to opt back into the fee is in the best interest of the city. At a minimum, the large-volume industrial customer will be required to comply with the following mandatory conditions:
- (1) The large-volume industrial customer must submit a written request to the city manager to request to opt back into the drought surcharge exemption fee subject to city manager review.
 - (2) Upon receipt of invoice, the large-volume industrial customer must timely pay the drought surcharge exemption fees calculated on said customer's actual water usage from date of city's receipt of written request back to said customer's date of opt out, up to a maximum of ten (10) years.
 - (3) The large-volume industrial customer remains subject to compliance with the aforementioned allocation surcharge provisions of the city Code as may be amended and all other applicable ordinances, rules and regulations of the city for the mandatory reinstatement period of twenty-four (24) months. The mandatory reinstatement period begins upon date of notice from the city to said customer and continues for twenty-four (24) consecutive calendar months. During the reinstatement period, the large-volume industrial customer will timely pay a non-refundable reinstatement fee of ~~twenty five cents (\$0.25)~~ thirty-one cents (\$0.31) per one thousand (1,000) gallons of water upon receipt of invoice. By payment of said reinstatement fee, the large-volume industrial customer has determined that the fee is fair, just, and reasonable.
 - (4) Despite compliance with these conditions, the large-volume industrial customer will not be allowed to opt back into the fee when the combined storage level of the Choke Canyon Reservoir and Lake Corpus Christi declines below forty (40) per cent.
- (d) *Dedicated use of the drought surcharge exemption fees.*

EXHIBIT A

- (1) The fee shall be dedicated by the city for development of a drought-resistant water supply and shall not be used for operation and maintenance costs of any water supply, treatment facility or distribution system.
 - (2) The fee paid to the city will be reserved in a separate account ("account") and used only for capital costs to develop and/or acquire an additional drought-resistant water supply including, but not limited to, payment of debt for an allowable capital project.
 - (3) The city manager may execute documents necessary for the establishment of a dedicated fund.
- (e) *Review and adjustment of the drought surcharge exemption fee.* The fee shall be reviewed and adjusted by city council action no more frequently than every five (5) years. Any subsequent fee increase is limited to increases based upon changes to the following Consumer Price Index: CPI-All Urban Consumers (Current Series) for water and sewer and trash collection services in U.S. city average, all urban consumers.
- (f) *Participation by wholesale water suppliers.* A wholesale water supplier with a water supply contract with the city may choose to establish an identical voluntary drought surcharge exemption fee and standard agreement for its large-volume industrial customers with said fee and agreement to be equivalent to the ordinance and standard agreement adopted by the City of Corpus Christi. Upon adoption of said identical voluntary drought surcharge exemption fee and standard agreement for its large-volume industrial customers, the wholesale water supplier shall assess and collect the fees from its large-volume industrial customers and then remit said fees to the city. In addition, the wholesale water supplier shall notify the city manager or designee of the volume of water used by its large-volume industrial customers each month.
- (g) The city manager may execute letters of commitment and standard agreements regarding payment and use of drought surcharge exemption fee with terms consistent with this section 55-159.1 (i.e., an "agreement"). The agreement may be terminated by the city upon five (5) years' notice to terminate the agreement. A copy of the standard agreement is attached as an exhibit to the ordinance which enacted this section 55-159.1. The city manager is authorized to adjust the terms of the standard agreement as long as said adjustments are consistent with the terms of this section 55-159.1 and said adjustment is made available to all large-volume industrial customers participating in the drought surcharge exemption fee.
- (h) The drought surcharge exemption fee established by this section 55-159.1 continues to be billed and paid except during periods when the balance in the account exceeds one hundred fifty million dollars (\$150,000,000.00), to be adjusted annually for inflation by the following Consumer Price Index: CPI-All Urban Consumers (Current Series) for water and sewer and trash collection services in U.S. city average, all urban consumers. While balance exceeds one hundred fifty million dollars (\$150,000,000.00) the city will cease billing and collection of the fee and the large-volume industrial customer remains exempt from the allocation surcharges.
- (i) The city may repeal this section 55-159.1 upon at least five (5) years' notice to the then participating large-volume industrial customers and participating wholesale water suppliers.
- (j) Upon city's repeal of this section 55-159.1 or city's termination of the agreement, any unencumbered balance remaining in the account will be returned to the then-participating large-volume industrial customers and then-participating wholesale water suppliers on a pro-rata basis.
- (k) The large-volume industrial customer paying the drought surcharge exemption fee established by this section 159.1 is exempt from city curtailment of water during reservoir system Stages 1, 2, and 3, except when such curtailment is required by V.T.C.A., Water Code § 11.039 or required by other applicable state laws and state regulations.

(Ord. No. 031533, § 3, 9-11-2018)