

**AN ORDINANCE OF THE CITY OF LEANDER, TEXAS**

**ORDINANCE NO. 23-050-00**

**AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING SECTION 13.02.007, ARTICLE 13.02, WATER AND SEWER SERVICE, TO PROVIDE FOR TERMS AND CONDITIONS OF PROVIDING WATER AND WASTEWATER SERVICE TO PROPERTIES REMOVED FROM THE CITY'S ETJ; PROVIDING A SEVERABILITY CLAUSE, PROVIDING SAVINGS, EFFECTIVE DATE AND OPEN MEETINGS CLAUSES, AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City of Leander, Texas (the "City"), owns, operates and maintains a water treatment and distribution system;

**Whereas**, SB 2038 authorizes property owners to petition to be removed from the City's extraterritorial jurisdiction ("ETJ") under certain conditions;

**Whereas**, when a property is removed from the City's ETJ, the City loses regulatory authority necessary for proper management of City's water and wastewater systems and services and for the protection of the public health, safety, and welfare, including but not limited to enacting and enforcing ordinances related to platting, effective extension of the utility system, water quality, and water conservation and drought contingency;

**Whereas**, enactment and enforcement of water conservation regulations is a condition of permits the City holds related to its water supply agreement, and independent of such permit, is necessary to preserve water supply during periods of drought and disruptions in the water supply system; and

**Whereas**, the City Council finds that regulations set forth herein are reasonable and necessary for the purpose of managing water supply and distribution for its customers and for the protection of the public health, safety, and welfare;

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Amendment of Section 13.02.007.** Division 1, Article 13.02.007 of the City of Leander Code of Ordinances (the "Code") is hereby amended to add Section 13.02.007 read as follows:

**Section 13.02.007 Retail Utility Services to Properties Removed from the ETJ**

- (a) A property owner who petitions to be removed and is removed from the City's extraterritorial jurisdiction ("ETJ") pursuant to SB 2038 is not eligible to receive retail

water or retail wastewater service from the City. The property owner may receive retail water or retail wastewater service from the City by submitting a petition to be annexed into the City's ("ETJ") or city limits, as appropriate.

- (b) For properties removed from the ETJ that are removed from the City's water or wastewater certificate of convenience and necessity ("CCN"), in due course and at such time determined appropriate by the City, the City will consider applying for decertification of the property from the City's ETJ. The City will not oppose the property owner's application to decertify from the City's CCN.
- (c) The City Council may determine, in its sole discretion, to provide services to a property that was removed from the City's ETJ without first annexing the property upon: (i) compliance with the conditions set forth below; and (ii) a determination by the City Council that the provision of services is in the best interest of the City.

- (1) Adequate capacity exists. There is adequate capacity of City services available for the purpose of servicing residential and commercial users outside the City's ETJ without impairing services within the City's service area. Whether such adequate capacity exists shall be determined solely by the Director of Engineering, and the determination of the director shall be final.
- (2) Protection of resources. The extension of services shall not lead to significant degradation of water quality or other environmental resources, or cause or have the potential to cause the City's non-compliance with any local, State, or federal regulations or statutes.
- (3) Owners outside City limits to bear costs of service facilities and furnish easements. The property owner requesting service shall be responsible for all costs relating to the design and construction of service facilities. The property owner shall also furnish suitable construction and permanent easements and rights-of-way for utility lines.
- (4) Construction to conform to City standards. All design and construction of service facilities shall be in accordance with City standards and specifications.
- (5) New subdivisions to comply with City subdivision regulations. New subdivisions recorded after the date of passage of this section desiring services shall comply with the subdivision regulations of the City of Leander, Texas, in effect at the time such new subdivision is approved.
- (6) City to have right of review. The City shall have the right to review and approve all plats and plans where service is to be provided. The property owner requesting the service shall pay for all reviews in accordance with the Leander Code of Ordinances Appendix A Fee Schedule, as amended.
- (7) Water and sewer facility requirements. Water service will not be provided to residential and commercial users who utilize private sewage facilities.
- (8) Service lines to meet ultimate requirements of the City. All service lines shall be sized to serve the ultimate requirements of the City.
- (9) City may reimburse owner for oversized service lines. Where the service lines required to meet the ultimate requirements for the City are larger than the total capacity required to serve the tract of land to be developed, the City may enter into

a contract with the property owner constructing the service lines for reimbursement for the excess capacity.

- (10) Extended service lines to be inspected by the City. All service lines and facilities extending from existing City facilities to any tract of land outside the City limits requesting service shall be inspected by the City's Engineering Department. The property owner requesting the service shall pay for inspections in accordance with the Leander Code of Ordinances, Appendix A, Fee Schedule, as amended.
- (11) Wholesale service to another retail public utility. Any provision of City services on a wholesale basis to another retail public utility in the City's ETJ will be governed by a separate wholesale service agreement approved by the City Council incorporating terms and conditions determined by the City Council to be in the best interest of the City. Expenses incurred by the City in the negotiation and execution of a wholesale service agreement shall be reimbursed by the property owner or retail public utility requesting the wholesale service.
- (12) Utility Service Agreement. The property owner shall enter into a utility service agreement with the City that incorporates the terms and conditions of this Section 13.07.002(b)(2), that obligates the property owner to comply with the City's tree preservation, landscaping, water conservation, and drought contingency regulations, and that identifies specific design standards, utility usage restrictions, and connection of public infrastructure as deemed necessary by the Director of Engineering, and any other terms determined by the City Council to be in the best interest of the City.

**Section 3. Conflicting Ordinances.** Division 1, Article 13.02, Leander Code of Ordinances is amended as provided herein. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

**Section 4. Savings Clause.** All rights and remedies of the City of Leander are expressly saved as to any and all violations of the provisions of any ordinances affecting utility service within the City 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. Effective Date.** This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

**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 phrase, sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of

any such invalid phrase, clause, sentence, paragraph or section. 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.     Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is 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.

**PASSED AND APPROVED** on the 17 day of August, 2023.

**ATTEST:**

**THE CITY OF LEANDER, TEXAS**

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Dara Crabtree, City Secretary

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Christine DeLisle, Mayor