

Ordinance No. 2010-02

AN ORDINANCE OF THE CITY OF EDEN, TEXAS, GOVERNING THE MANAGEMENT OF UTILITY SERVICES; GOVERNING PAYMENT OF FEES; ESTABLISHING PROCEDURES FOR DELINQUENT PAYMENTS, DISCONTINUANCE OR REFUSAL OF SERVICE, EFFECTIVE DATE AND NOTICE AND HEARING OF DISCONTINUANCE.

WHEREAS, under the Texas Constitution article 3, section 55, a city is unable to forgive the debts of its utility customers and may proceed with collection efforts.

WHEREAS, pursuant to TEX. LOC. GOV'T CODE §552.0025, a municipality may require varying utility deposits for customers as it deems appropriate in each case.

WHEREAS, a city may discontinue utility service to a customer whose account is delinquent provided due process is satisfied.

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

1. RECITALS

The foregoing recitals are adopted and incorporated herein for all purposes.

2. PAYMENTS OF FEES; DELINQUENCY; DISCONTINUANCE OR REFUSAL OF SERVICE; NOTICE OF DISCONTINUANCE.

(A) Payment of services. Rates and charges for water, sewer and refuse services rendered by the city shall be billed to the customer of such services on the same utility bill, and the customer shall not be permitted to make payment for any one service separately, but charges for all services received by the customer must be paid at the same time. The Water Utilities Department shall send the customer a monthly bill indicating, but not limited to:

- (1) The customer account number;
- (2) The customer name and service address;
- (3) The service date period and the due date;
- (4) The amount due for each service rendered, any and all previous delinquent charges, plus penalty, if any, still due and owing, the amount if the bill is paid by the due date; and
- (5) The amount, including the late payment penalty as set out in division (B) of this section, if not paid on or before the due date.

(B) When charges are delinquent — bill items. Except where otherwise provided by application between the customer and the city, charges for services become delinquent if payment is not received by the Water Utilities Department on or before the due date, which is the

10th of each month. After the due date, the customer must pay the bill amount plus a 10% late penalty. If the due date falls on a weekend or holiday, the customer will have until end of the day of the following business day to pay. The Water Utilities Department shall send the customer a notice of discontinuance indicating, but not limited to:

- (1) The customer account number;
- (2) The customer name and service address;
- (3) The service date and the due date;
- (4) The amount due for services rendered (including all previous delinquent charges, plus penalty); and
- (5) The amount, including the late payment penalty.

(C) Bill not received. Failure to receive a bill from the Water Utilities Department does not relieve a customer or other person liable for charges under this chapter from liability for service.

(D) Authority to discontinue service. The Utility Manager may: refuse application for service, discontinue service, lock a utility box, or refuse to restore service to:

- (1) A customer who fails to pay any charges by the close of business on the 20th of each month. The above stated action(s) will occur on the start of business on the 21st of the month. If the 21st should fall on a weekend or a holiday, the Manager may take necessary measures described above on the next regular business day following the 21st;
- (2) A person who violates any portion of:
 - (a) The Plumbing Code of the city, or
 - (b) The Health Code of the city;
- (3) A person making application for service to property at an address, if the person has delinquent charges outstanding at another address; or
- (4) A customer at any premises if the Utility Manager determines that a substantial waste of water, or a health hazard is occurring as a result of leaking, damaged, open or disconnected private laterals, pipes, or drains on the premises.

For purposes of this section, any reconnection fees incurred by a delinquent account will be owed by the account holder regardless of whether physical disconnection services occurred, if the account remained delinquent at the start of business on the 21st of the month.

(E) Cutting and plugging connections. The Utility Manager's authority to discontinue service includes the right to cut and plug water or wastewater connections to private property. The costs of cutting and plugging connections will be charged to the customer in addition to the delinquent charges due.

(F) Notice of discontinuance. The Utility Manager must notify a customer in the following manner before discontinuing service:

- (1) The Utility Manager must send the customer at least seven days advance notice of pending discontinuance.
- (2) The notice must provide a statement of reasons for cutoff and a statement of delinquent charges due, where applicable. The notice must also provide

a time, place and means by which the customer may cure the delinquency or violation, or dispute the validity of the reasons for discontinuance in accordance with Section (H) below.

- (3) The notice may be served either in person or by mail.
- (4) Additionally, in cases to master-metered accounts, the Utility Manager must cause a notice of pending discontinuance to be posted on the door of each dwelling unit known to be occupied and in a conspicuous place within the property manager's office or the common area of the premises.

(G) Exceptions to notice requirement. Section (F) of this section does not apply to discontinuance of service resulting from a violation of this chapter if the Utility Manager determines that immediate discontinuance is necessary to prevent an imminent threat or occurrence of:

- (1) Harm to the health or safety of persons;
- (2) Damage to city or private property; or
- (3) Contamination of the water system.

(H) Opportunity for Hearing. Before service is terminated a customer must, in addition to receiving notice, also be given an opportunity for a hearing. The hearing must be conducted by an officer or employee of the utility and the officer or employee must have the authority to resolve the dispute and rescind the discontinuance order if the hearing officer determines that the order was an error. An informal consultation with designated city personnel can satisfy the hearing requirement.

(I) Customer's request to discontinue service. Upon a customer's request for discontinuance of service, the Utility Manager may discontinue treated or untreated water service to the customer. Upon receipt of the application for termination, the Utility Manager may remove the water meter and service connections. However, the customer is liable for all charges incurred prior to removal of the meter. Where service is furnished through more than one meter, the customer may request discontinuance of one or more meters and thereafter be billed on the basis of the remaining meter or meters.

(J) Restoration of service. Discontinued service will not be restored until the customer or other person who has or accepts legal responsibility for violations committed or charges unpaid either pays all charges due (including the charges to restore connections), makes arrangements for payment satisfactory to the Utility Manager, or, where applicable, ceases violation of the particular code provision in question. The decision to restore service while delinquent charges or code violations still exist rests solely with the Utility Manager.

(K) Reconnection costs. In order for a customer's service to be reconnected after disconnection, the customer must pay:

- (1) a reconnection fee of \$75.00; and
- (2) a 10% increase in deposit.

(L) Penalty fee not charged. Persons, with single-family residential accounts, who are 65 years of age or older may request an exemption from the late payment charge. This is to accommodate those persons who receive their social security checks later than they receive the utility bill. This exemption shall apply to only one residential account at a time, and shall remain

in effect, without renewal, as long as the account name does not change. Proof of age shall be required.

(M) Tampering with meters. Should any individual cause damage or tamper with any meter in any manner in violation of this ordinance or the terms of use of the meter, the individual shall be assessed a fee of \$100.00 per occurrence. Should a meter be discovered to have been tampered with or damaged, the Utility Manager shall have the authority to lock the meter box.

(N) Cumulative remedies. Enforcement of this section does not waive any additional remedies, civil or criminal, available to the city under law.

3. REPEALER

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provisions of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. EFFECTIVE DATE


This Ordinance shall be effective immediately upon passage and publication as provided for by law.

6. PROPER NOTICE & MEETING

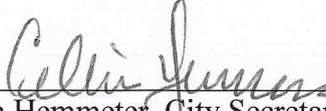
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 13th day of July 2010, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Eden, Texas.

CITY OF EDEN:

By: 
Mayor Eugene Spann

ATTEST:



Celina Hemmeter, City Secretary

APPROVED AS TO FORM:

Alan J. Bojorquez, City Attorney