

ORDINANCE NO. 050830-2

AN ORDINANCE REPEALING ORDINANCE NUMBER 03-0212 ESTABLISHING PROCEDURES CONCERNING DELINQUENT WATER, WASTE WATER, SOLID WASTE DISPOSAL ACCOUNTS AND PROVIDING FOR TERMINATION OF SERVICE AFTER NOTICE TO THE CUSTOMER, AND PROVIDING FOR A LIEN OF NON-HOMESTEAD PROPERTY TO SECURE THE PAYMENT OF MUNICIPAL UTILITY BILLS.

WHEREAS, the City provides water, waste water, and solid waste disposal service to the Residents of the City of Buda and its surrounding areas; and

WHEREAS, the City has determined that it is necessary to collect reasonable rates for its services in a prompt manner, to enable the City to provide a safe and dependable potable water supply to its customers and to run and operate a waste water collection system and treatment plant; and

WHEREAS, the City has determined that some customers have taken unfair advantage of the City's leniency in collecting overdue accounts and that it is not fair to those customers who pay on time, nor is it good management practice, to permit accounts to remain unpaid while still providing service; and

WHEREAS, the City is expressly authorized by Tx. Water Code §13.250 to discontinue service for non-payment of service; and

WHEREAS, the City is expressly authorized by Chapter 402 of the Texas Local Government Code to impose a lien to secure payment of delinquent accounts; and

WHEREAS, the City has determined that the policies set out in this ordinance are fair and just, and are likely to ameliorate and cure the evils mentioned above.

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

Section 1. Due Date

Payments for water, waste water, and solid waste service are due on the 10th day of the month following the date service was provided. Payments not received by the City by the 10th day of the month are considered past due.

Section 2. Past Due Penalty

A delinquent account for water, waste water, or solid waste service shall incur a late charge of 10% of the total amount due. Past due payments that are made and do not include a penalty shall continue to be past due for collection purposes until the late charge is paid in full.

Section 3. Notices

Any delinquent water, waste water, or solid waste service account outstanding by the 15th of the month shall receive a past due notice. The City of Buda shall forward the following notices as necessary:

- (a) Current to 30 Days Past Due, or any portion thereof: The payments are due on the 10th of the month following the month in which service was rendered. Accounts not paid in full by the 10th day of the month it is due will incur a 10% late fee. A reminder notice will be sent via U.S. Mail on the 16th of each month..
- (b) 31+ Days Past Due, or any portion thereof: FIRST DISCONNECT NOTICE - When the amount due would be equal to at least 2 monthly payments, a Past Due/Disconnect Notice will be sent via U.S. Mail on the 16th of each month. This notice will include the date of disconnect if the outstanding balance is not paid in full, together with late charges.
- (c) 31+ Days Past Due, or any portion thereof: SECOND NOTICE - 5 Calendar days prior to the disconnect date, a Final Notice will be hung on the resident's door if all amounts due have not been paid in full.

Section 4. Fees

The Director of Finance will assess to the account the following fees on delinquent accounts as appropriate:

- (a) Late Fee - 10% of total amount due
- (b) Reconnect Fee - \$40.00
- (c) Deferment Plan Fee - \$25.00
- (d) Return Check Fee - \$25.00 + any other bank charges incurred by City

Section 5. Extreme Hardship Cases

- (a) the Director of Finance has sole discretion to approve or deny an extreme hardship application, but in doing so, shall act in good faith and consider the following factors:

1. the extent to which the circumstance leading to the non-payment for the service was caused by factors beyond the control of the delinquent user;
 2. the financial resources available to the delinquent customer; and
 3. the likelihood that the customer will be able to perform his or her obligations under the deferred payment schedule in a timely manner.
- (b) it shall be the burden of the delinquent customer to produce satisfactory evidence of the factors mentioned above.
- (c) if the Director of Finance determines in his/her judgment that the customer is subject to an extreme hardship, he/she may permit the delinquent customer to execute a deferred payment plan. It is the express will of the Council that extreme hardship cases will be recognized only in the most unusual circumstances, and shall not become a refuge for most delinquent accounts.

Section 6. Deferred Payment Plan

It shall be stated, that no more than 1 deferred payment plan may be accepted per customer per calendar year.

If the Director of Finance grants a customer's request for a deferred payment plan, he/she shall require the customer to execute a written agreement that:

- a. requires the customer to pay for all future services before the account becomes delinquent;
- b. provides up to, but no more than 6 months to pay all delinquent amounts, in equal or as nearly equal as practicable monthly installments;
- c. includes a deferred payment fee;
- d. provides that in the event of any default of the deferred payment plan, services shall be terminated without further notice.

Section 7. Additional Authority of the Director of Finance

The Director of Finance may develop forms and rules that are consistent with the purposes stated herein.

Section 8. Returned Check Fee

If any customer pays for utility service with a check that is dishonored for any reason, there is hereby assessed a returned check fee that shall be equal to \$25.00, plus the amount of any service charge imposed on the City by the bank or banks that handled the check. The returned check fee shall become a part of the amount owed for utility service provided by the City to the customer and shall be subject to all of the provisions of this ordinance.

Section 9. Lien

- (a) Pursuant to Chapter 402 of the Texas Local Government Code, there is hereby imposed a lien on each property that is served by the City's water and/or waste water system to secure the payment of delinquent municipal utility accounts. This lien does not attach to property that is a homestead protected by the Texas Constitution, nor does it secure the payment of any municipal utility bills that were incurred by a tenant of the property prior to the effective date of this ordinance.
- (b) The City Administrator shall perfect the City's lien by recording a notice in the Real Property Records of Hays County, Texas that includes:
1. the name of the owner of the property;
 2. the name of the person who received the service, if different than the owner;
 3. the legal description of the property;
 4. the amount owed to the City, including penalty, interest and collection costs; and
 5. the type of service for which payment is delinquent
- (c) The City's lien shall be inferior to a bona fide mortgage lien that is recorded prior to the date the City's lien is recorded in the Real Property Records of Hays County, Texas, but shall be superior to all other liens, including previously recorded judgment liens and all liens recorded after the City's lien.

Section 10. Severability

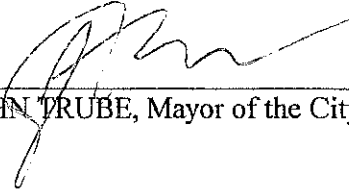
In case any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the agreement, and the agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been a part of it.

Section 11. Effective Date

Section 12. Repealer. This Ordinance repeals Ordinance Number 03-0212.

This Ordinance shall be effective as of _____, 2005.

PASSED AND APPROVED this the 30th day of August, 2005



JOHN TRUBE, Mayor of the City of Buda

ATTEST:



CITY SECRETARY