

**CITY OF FORNEY, TEXAS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING CHAPTER 13, "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY, TEXAS, BY AMENDING ARTICLE 13.02, "RATES, CHARGES AND SERVICE POLICIES," TO UPDATE CURRENT UTILITY BILLING POLICIES EXEMPTIONS FOR SPECIAL EVENTS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION.**

**WHEREAS**, the City of Forney, Texas (the "City"), is a home-rule municipality possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code and its Home Rule Charter; and

**WHEREAS**, the City adopted the Code of Ordinances, City of Forney, Texas ("Code"), for the protection of the public health and general welfare of the people of the City; and

**WHEREAS**, the City expressly retains the exclusive original jurisdiction over utility rates, operations and services of water and sewer utilities within the existing and future incorporated limits of the City; and

**WHEREAS**, the City Council now desires to amend and update the City's policies regarding the City's jurisdiction over utility rates, operations and services of water and sewer utilities; and

**WHEREAS**, the City Council finds and determines that it is in the best interest of the public health, safety and general welfare of the citizens of Forney, Texas, to amend certain provisions of Chapter 13, "Utilities" of the Forney Code as provided herein below.

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

**Section 1. FINDINGS INCORPORATED**

All of the above premises are found to be true and correct legislative determinations and are incorporated into the body of this Ordinance as if copied in their entirety.

**Section 2. CHAPTER 13, CODE OF ORDINANCES AMENDED**

From and after the effective date of this Ordinance, the Code of Ordinances, Chapter 13, "Utilities," is hereby amended by amending Article 13.02, "Rates, Charges and Service Policies," in its entirety to hereafter read as follows:

**Section 13.02.001 Water rates and charges**

- (a) Rates are hereby established and shall be collected for water services furnished, and administrative charges for services related thereto, by the city as specified in appendix

A of this code. Reconnections are made during the hours of 8:00 a.m. and 8:00 p.m. Monday through Friday and 8:00 a.m. and 5:00 p.m. Saturday through Sunday. Reconnections shall not be made on holidays observed by the City of Forney.

- (b) Temporary water rates are hereby established and shall be collected for water services furnished by the city as specified in appendix A.
- (c) Charges for water meters are hereby established and shall be collected as specified in appendix A.

### **Section 13.02.002 Sewer rates generally**

The schedule of rates, as adopted by the city from time to time, per month or fraction thereof, shall be the basis for determining charges to all customers for rendering sanitary sewer services, where the sewage produced by such customers is a normal strength wastewater (290 mg/l BOD and 270 mg/l suspended solids or less) and such customer is located within the city service area.

- (1) A monthly service charge shall be charged as set forth in appendix A of this code. For senior citizens, an alternate monthly service charge, as set forth in appendix A shall be charged.
- (2) A monthly volume charge shall be charged per one thousand (1,000) gallons of water used, or wastewater produced, as set forth in appendix A. The monthly volume charge for senior citizens per one thousand (1,000) gallons is set forth in appendix A.
- (3) A monthly sewer service charge, as set forth in appendix A, will be applied to each residential and commercial customer, as well as each apartment unit, multiple-family unit, mobile home space, or recreational vehicle space, or other special areas, such as washeterias, that are on a master meter with the city effective October 1, 1998. This charge is to reduce the debt service to North Texas Municipal Water District for the interceptor lines.
- (4) The monthly volume charges for residential class customers will be based on the individual customer's average monthly water used during the preceding winter months of November, December, January and February with the highest month being dropped from the calculation. The volumes used to compute these charges are based on the amount of water used by the residential class customers as measured by a meter. Where no preceding winter average is available from records, the city shall charge a minimum monthly charge as set forth in appendix A. After one year, the minimum bill for any billing month for residential or commercial class customers shall be as specified in appendix A. The minimum bill for any billing month for senior citizens shall be as specified in appendix A. Each living unit shall pay a separate minimum.
- (5) The monthly charges to commercial and industrial class customers will be based on total water used as measured by appropriate meters; provided, however, that if a customer can show to the satisfaction of the city that a significant portion of the metered water usage does not enter the sanitary sewers, the customer will be

charged only for that volume entering the sewers as determined by a method approved by the city.

- (6) A late payment charge, as set forth in appendix A, will be added to the sewer bill on the first business day following the original due date. This charge shall not be in addition to the late payment charge specified in appendix A, section 13.02.005(b), but shall apply to sewer customers who are not served by city water service.

### **Section 13.02.003 Sewer rates for monitored group class**

The city shall establish a monitored group class, consisting of those customers whose wastewater strength is, in the city's judgment, abnormally high. The city shall charge customers in this class, and shall compute such charges, in accordance with the following four-part rate schedule:

Monitored Group:

- (1) Monthly service charge: As set forth in appendix A of this code.
- (2) Volume charge: As set forth in appendix A of this code.
- (3) BOD and SS surcharge (according to the following formula):

$$S = C [(BOD - 290) + (SS - 270)](8.345)(V) + \text{Monitoring Charge}$$

Where:

S = Surcharge to user in dollars to be added to monthly billing for sewer.

C = Unit cost of treatment @ \$/lb.

BOD = BOD strength index in mg/l.

290 = Normal BOD strength in mg/l.

SS = Suspended solids strength index in mg/l.

270 = Normal suspended solids strength in mg/l.

8.345 = Factor converting mg/l to pounds/gallons.

V = Monthly volume [volume] of wastewater discharged by monitored customer.

Monitoring charge (testing) = Total cost to the city. The monitoring charge shall consist of all cost for personnel, material and equipment used to collect and analyze samples from the customer's wastewater to determine the strength of the wastewater produced.

### **Section 13.02.004 Deposits**

- (a) Upon application for water and sewer utilities, the applicable deposit, as specified in appendix A of this code, will be assessed and shall be paid prior to initiation of service.
- (b) Upon receipt of 36 consecutive months of on-time payment, the city shall apply the deposit to the customer's account. If the deposit has not been previously applied to the customer's account, upon termination of service, the amount of the last billing will be deducted from the deposit and the balance, if any, will be returned to the customer.

### **Section 13.02.005 Due date for payment of bills; reconnection fee; payment arrangements**

- (a) Utility bills shall be mailed to the customers of the system located in the city south of U.S. Highway 80 on the first day of each month and shall be payable on or before the fifteenth (15th) day of the same month. Utility bills shall be mailed to the customers of the system located in the city north of U.S. Highway 80 on the fifteenth (15th) day of each month and shall be payable on or before the thirtieth (30th) day of the same month (except for February, when it shall be payable on or before 15 days after the February bill date). The due date shall not be extended, nor shall the city be responsible, for any and all delays in the delivery or receipt of the utility bill. If the utility bill due date falls on a weekend or a holiday, payment shall be due on the next business day.
- (b) An administration fee, as set forth in appendix A, section 13.02.005(b), of this code, will be assessed on all accounts that have not been paid, or in those instances where payment arrangements have not been made, prior to the disconnection date. Payments received after 10:00 a.m. on the disconnection date will be charged an administration fee. Service will be disconnected approximately ten (10) days after the due date if payment has not been made, and an administration fee will be applied at this time. No service will be reconnected until payment in full or adequate payment arrangements have been made. An additional fee, as set forth in appendix A, section 13.02.005(b), of this code, will be assessed for reconnection services performed between the hours of 5:00 p.m. and 8:00 p.m., based upon availability. The administration fee may be waived once per account if the account has been established for more than three months and based on the payment history, the account has been maintained in good standing.
- (c) An administrative arrangement fee, as set forth in appendix A, section 13.02.005(c), shall be added to an account whenever a payment arrangement agreement, providing for extension of payment for amounts due on the account, is made. No account may obtain a payment arrangement if there is less than a three (3) month payment history nor is allotted more than one (1) payment arrangement agreement within a three (3) month period. A payment arrangement agreement must be paid in full by the designated date or the account will not qualify for an additional payment arrangement for no less than one (1) year. An account that is currently in a payment arrangement agreement status but that becomes delinquent and is disconnected may not be reconnected until the account is paid in full. Payment arrangement agreements will not be accepted on disconnection day and must be submitted no later than 5:00pm one business day prior to disconnection day.

- (d) Payment arrangement agreements will not be accepted on disconnection day and must be submitted no later than 5:00pm one business day prior to disconnection day.
- (e) An installment payment agreement fee, as set forth in appendix A, section 13.02.005(e), shall be added to an account whenever a payment arrangement agreement providing for extension of payment for amounts due on the account of more than one installment payment is made. The installment payment agreement fee is in addition to the administrative arrangement fee. An account shall not be allowed to have more than one installment agreement for a rolling 12-month period.

#### **Section 13.02.006 Insufficient check charge**

In any case where a utility bill owed to the city is paid by a check, including an auto draft check, which does not clear the bank upon which it is drawn in a normal manner, an insufficient check charge, as set forth in appendix A of this code, shall be paid at the time said insufficient funds check or auto draft check is redeemed or such charge shall be added to the utility account.

#### **Section 13.02.007 Testing water meter at consumer's request**

Any municipal water meter shall be taken out and tested upon complaint of the consumer upon payment of a fee as set forth in appendix A of this code. If, upon testing, it is determined that the meter is not within three percent (3%) of being accurate, it shall be repaired or replaced and the fee returned to the consumer.

#### **Section 13.02.008 Meter re-reads**

Any consumer who believes that his measured water consumption is excessive may request that the meter be re-read. One (1) free re-read is allowed within each calendar year, and any additional re-reads in the same calendar year will be assessed a fee as set forth in appendix A of this code, unless there has been an error on the part of the city or the meter is not functioning properly.

#### **Section 13.02.009 Illegal connections; tampering with meter**

- (a) Any person who shall tap or connect with the waterworks of the city, or who shall turn on the water from such waterworks without first obtaining a permit to do so from the waterworks department, or who shall interfere with any service, main, standpipe or other waterworks property, shall be deemed guilty of a misdemeanor and upon conviction in the municipal court shall be subject to a fine.
- (b) Any person tampering with a water meter or activating water service after service has been disconnected for nonpayment of a bill or failure to pay a deposit will receive a warning regarding the consequences of repeated actions. Upon a second incident of tampering, the individual shall be assessed a penalty to be added to the current balance as set forth in appendix A of this code. On the third incident of tampering by a customer, the meter will be removed and the customer will be required to pay an additional deposit and installation fee as set forth in appendix A.

#### **Section 13.02.010 Transfer fee**

A utility transfer fee, as set forth in appendix A of this code, is hereby established and shall be collected when water service is transferred from one location to another inside the city service area.

**Section 3. PENALTY PROVISION**

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum of not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$2,000.00). The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

**Section 4. SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality 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 unconstitutional phrase, clause, sentence, paragraph or section.

**Section 5. REPEALER CLAUSE**

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section 6. EFFECTIVE DATE**

This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.**

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**Amanda Lewis, Mayor**

**ATTEST:**

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**Dorothy Brooks, TRMC, CMC, City Secretary**

**APPROVED AS TO FORM:**

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**Jennifer Barnes Smith, City Attorney**