

ORDINANCE NO. 1033

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LLANO, TEXAS, RESCINDING ORDINANCE NO. 750, ADOPTING A UTILITY SERVICE REGULATION POLICY FOR SERVICES PROVIDED BY THE CITY; AND ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR PENALTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LLANO:

CITY OF LLANO, TEXAS

UTILITY SERVICE REGULATIONS

I. PURPOSE

These regulations are designed to insure fair, consistent, courteous, and safe provision of utilities to all customers of the City of Llano. All previous rules and policies which are in conflict with these regulations are superseded. The City covenants that its utilities will be provided in conformance with all applicable laws of the United States and the State of Texas, including the making and collecting of reasonable and sufficient rates for operation of its utility systems. No free service will be provided to any customer of the utility.

II. SERVICE CONTRACT

When a customer desires to be supplied service by the City, a **UTILITY SERVICE APPLICATION & AGREEMENT** form shall be filled out and properly executed. Such **UTILITY SERVICE APPLICATION & AGREEMENT** form shall constitute a service contract between the customer and the City, and shall continue in effect until canceled by either party. All required applications and forms must be signed in person by the primary applicant and secondary applicant. Proper identification will be required in the form of a valid Texas Driver's License or Social Security Number accompanied with photo ID. Service contracts are binding upon the heirs, legal representatives and successors of the customer, but are not assignable. The City shall rely on information supplied by the applicant, and shall not be held responsible for false, misleading or omitted information on the customer's **UTILITY SERVICE APPLICATION & AGREEMENT**. Deliberate false or misleading information supplied by the applicant shall be cause for immediate termination of service.

III. REFUSAL OF SERVICE

Utility service to an applicant may be denied until all applicable regulations have been set, and for the following reasons:

1. **Inadequate Facilities**

If applicant's facilities are of such a nature that satisfactory service cannot be given; or

2. **Indebtedness**

If applicant has any outstanding indebtedness to the utility department. If such indebtedness is in dispute, applicant will be served City utilities upon posting of a settlement deposit in the disputed amount, to be retained by the City until such a dispute is resolved. Upon settlement, the deposit shall either be retained or refunded. Indebtedness shall include failure to pay the utility bill of another customer when a change of customer identity is made to deliberately evade payment of a legitimate utility bill.

IV. SUSPENSION OF SERVICE

When a hazardous or unwarranted breach of service occurs on the customer side of the point of delivery, and such event serves to jeopardize service to other customers in the system, the City reserves the right to suspend customer service without notice, until such situation is corrected.

V. DISCONTINUANCE OF SERVICE

Utility service may be disconnected for any of the following reasons:

1. Failure to pay utility bills
2. Returned checks
3. Violation of City utility regulations or ordinances
4. Theft of service
5. Failure to discontinue or correct a known dangerous or unwarranted condition
6. Inability to obtain reasonable access to utility meters

VI. SERVICE RULES

1. **Meter Reading**

Under normal circumstances, customer meters will be read starting on the 12th day of the month, or the next succeeding working day if the 12th is on a weekend. If meters cannot be read because of dogs, cars, brush, etc., such notation shall be made on the meter sheet by the meter reader, and the utility office will estimate the meter reading based on the best information available. The customer will be notified by certified mail that the problem must be resolved before the next meter reading, or else utility services will be disconnected. Correction of estimated readings will be made in the next succeeding month following removal of the problem.

2. Billing

Utility bills are mailed to customers on the last working day of each month. Payment is due on the 10th day of the following month, or the next succeeding working day if the 10th is on a weekend.

3. Demand Meters

Demand meters will be installed on all commercial customers if (1) the installed load would indicate that demands over 25 KW would be experienced.

4. Delinquent Bills

A utility bill becomes delinquent on the 11th day of the month a penalty of ten percent (10%) shall be applied to the customer's account per the UTILITY SERVICE APPLICATION & AGREEMENT. Delinquent customers shall be notified three (3) days prior to termination of service.

5. Cut-Off

If the delinquent bills are not paid within fifteen (15) days following the tenth (10th) day of the month, utility service shall be discontinued on the twenty sixth (26th) day of the month. Service disconnects shall be made only between the hours of 8:00 a.m. and 5:00 p.m.

Customers are given two separate notifications of service disconnection. The first method of notification is given on the back of original utility bill. The second method of notification is provided by mail in a form letter stating "Termination Notice".

6. Re-Connects

Upon payment of all past due amounts and such other payment necessary to make the account current, plus payment of the reconnect fee and any additional deposits required, utility service shall be continued. After hours re-connect fees are in addition to regular fees.

7. Life Support

In the event that City utility service is necessary to sustain a life support system, customers shall be required to notify the City in advance that such necessity exists, and the conditions and terms of such necessity. The City reserves the right to verify such necessity, including the requirement of supporting medical documentation. Life support utility service shall not be discontinued by the City for nonpayment of bills, unless the customer so affected has been personally notified of the City's intent to discontinue service and given not less than thirty (30) calendar days to

resolve the financial deficiency. Emergency backup systems shall be the customer's responsibility.

8. Deferred Payment Plan

Customer may make application for a Deferred Payment Plan if the following hardship circumstances exist and affect the customer's ability to pay in a timely manner: A serious injury or illness of the primary or secondary applicant, death in the immediate family, natural disaster or bankruptcy. The City of Llano must be shown proof of the documented hardship to be eligible for the Deferred Payment Plan. Hardship claims do not guarantee continuation of service.

The following items must be maintained to have continued service:

- a.) Current bills are kept up to date.
- b.) A reasonable Deferred Payment Plan is accepted by the City for payment of all delinquent utility accounts, fees, and penalties, such time period shall not exceed two (2) months.

Failure to make timely payment for current service or failure to make timely payment on delinquent accounts according to the terms of an executed Deferred Payment Plan shall be cause for termination of service according to regular termination procedures.

9. Garbage

A garbage collection fee will be charged for each electric meter in service, except for a meter servicing security lights, wells or signs. When a customer has multiple meters, but only one garbage collection requirement, an exception may be made to this requirement upon approval by the City Manager.

VII. DEPOSITS

1. a.) Required deposits for all new customers shall be as follows:

<u>Residential</u>	<u>Fee</u>
Electric	\$ 75.00
Water	\$ 25.00
Non Refundable Connect Fee	\$ 25.00

With Letter of Credit
 Showing 12 Month History of Timely Payments
 Within the Last 18 Months with a prior utility
 company – no additional fees required
 (Total deposit and fees for all services) \$125.00

Without Letter of Credit
 Additional Deposit Amount is Required \$150.00
 (Total deposit and fees for all services without
 any letter or credit \$275.00)

Commercial

Payment equal to two (2) times the average monthly billing calculated over the most recent twelve months billed or as estimated by the City Manager for any new facilities.

- b.) Deposits will be applied against delinquent bills after the 25th of each month. New deposits and new Utility Service Application and Agreements will be required before services are reconnected.
- c.) The deposit on any residential property may be raised up to three (3) months average bill, or four (4) months average bill on commercial property, by the City Manager upon recommendation of the Utility Office Supervisor if the customer’s payment history indicates frequent, recent, or large delinquencies, or the property is declared rental property.
- d.) The City of Llano retains the right to obtain a credit report, payment history, and/or service verification on any person or entity making application for utility service from the City. This information may be used when establishing the required deposit.
- e.) The customer may request the City of Llano to run a credit report to verify their credit history. The customer will be responsible to pay for this credit report at the time of the request. If the credit report returns a favorable history, the deposit required shall be equal to that of a deposit with a Letter of Credit.
- f.) For customers without a Letter of Credit or Favorable Credit Report, after twelve (12) months of continuous non-delinquent payments have been

recorded, the City of Llano will apply the \$125 additional deposit of the \$250 deposit toward their next utility bill.

2. A deposit will not be required for public schools or governmental agencies. Waiver of deposits for any other individual or agency must be granted by the City Council.
3. A deposit for temporary or seasonal service may be required by the City in such amount, and in such form, as determined by the Utility Office Supervisor to be sufficient to protect the City against the risk of loss of payment for service.
4. Upon discontinuance of service, the deposit shall be applied to the payment of the final utility bill, with any negative balance billed to the customer. A transfer of service from one premises to another shall not be deemed a discontinuance, but all service charges for such a transfer shall apply.
5. Interest on deposits shall not be paid by the City.
6. Unclaimed deposits shall be maintained on the City records for two (2) years. After any such funds have been unclaimed for two (2) years, notice shall be published in a newspaper of general circulation within Llano County, Texas, stating that funds on account of utility customers of the City of Llano, unless claimed within twenty-one (21) days will become the property of the City of Llano. Such notice shall be published one time and shall list the names of the customers having funds on deposit.

VIII. LIENS : UTILITY SERVICES (Electric, Water, Sewer, Garbage)

1. After the City has terminated a customer's utility (water, sewer, garbage and/or electric) service(s) pursuant to the requirements of this ordinance, or after the City terminates utility services(s) at a customer's request, the City Utility Office Supervisor shall file a lien on the property which the terminated utility service(s) served and in the amount that the customer whose service(s) were terminated owed to the City for utility service at the time of the termination of service(s).
2. If a customer owes less than fifty dollars (\$50.00) for the aggregate sum of electric charges, water charges, and sewerage charges at the time of termination of any of those services, no lien shall be filed against the property served by those services. If the customer is not delinquent in payment at the time of termination of any of the services, no lien shall be filed until customer becomes delinquent in payment. No lien shall be filed on any property that the City knows to be a homestead as defined by the Texas Constitution.
3. Any lien authorized by this Section shall be filed with the County Clerk of Llano County, Texas, or with the County Clerk of the county in which the property to which the lien will be attached is located. The City shall then have a privileged

lien on as many lots or pieces of property as the terminated services previously served and are described on the lien instrument by metes and bounds, or by City lot and block description, or by any other adequate description. The lien shall secure the charges made by the City for these above discussed services rendered to that property. The Utility Office Supervisor shall add to any lien filed pursuant to this Section the amount of the filing fee charged by the County Clerk for filing that lien. The lien shall be effective against that property, if the account holder or user of services of that property were either the owner of that property, a tenant of that property or a permissive holder of that property, or an adverse possessor of that property. It is further provided that for any charges for which the lien authorized by this Section is designed to secure, suit may be instituted and recovery in the foreclosure of that lien may be had in the name of the City. The City Attorney is authorized to file such liens.

4. Notice and Hearing:

After the filing of a lien pursuant to this Section, the Utility Office Supervisor shall within thirty (30) days of the filing of that lien give the owner of the property and the account holder notice that such a lien or liens have been filed on that property and inform the owner and account holder of their rights of appeal. Within thirty (30) days of the post mark of the notice sent to the property owner or account holder, the property owner or account holder may appeal the decision to impose the lien on that property to the City Manager or any fair and impartial impartial person the City Manager may designate. The City Manager or his designee shall authorize the release of the lien if the property owner or account holder shows that no bill for the above mentioned services to his property encumbered by the lien or liens is owing, or if the property owner shows that the encumbered property is and at all times from the hour of the filing of the lien or liens until the time of the appeal has been a homestead as defined by the Texas Constitution. The City Manager or his designee may modify or release the lien to reflect the true amount of delinquency in payment for services to the property if the owner or account holder demonstrates that a lesser bill is owing than the lien alleged or if the Utility Office Supervisor cannot show that the entire lien alleged is owing. The person last listed on the Llano County tax records as being the owner of any given piece of property shall be presumed to be the owner for purposes of this subsection, and the address listed for the owner on the Llano County tax records shall be presumed to be the address of the owner.

5. Whenever a person or entity pays all principal, interest, and the filing fee of a lien validly filed pursuant to this Section, the Utility Office Supervisor shall execute a release of that lien and surrender it to the paying party. The City shall not be responsible for filing that release.

6. Declaration of Rental Property or Services:

a. The owner of any property which is rented to another and such tenant carries City electric, water or sewer, in the tenant's name, may prevent the City from using that property as security for the water, electric, and sewer, service charges for service to that property and from filing any lien on such property under the provisions of this Chapter by filing with the City a declaration in writing specifically naming the service address of that property and declaring such to be rental property which the owner does not wish to be security for the water, electric, and sewer, service charges for service to that property.

b. When such a declaration has been filed with the City prior to the time the account holder begins to receive services, the City shall collect a deposit in an amount equal to three (3) months estimated average bill on that account pursuant to VII-1(c) of this ordinance. If a property owner wishes to declare in regard to the bill of a person or entity already receiving services at a particular property, that declaration shall not be effective until the posting of a deposit in an amount equal to three (3) months estimated average bill on that account in the amount required by Section VII - 1 (c) of this ordinance.

c. Paragraph (b) of this subsection notwithstanding, an owner of property who files the above described declaration on property which is rented to another and the tenant is carrying the City water, electric, or sewer services in the tenant's name at the time of the passage of this Section, then such declaration shall become immediately effective without the posting of a deposit in an amount equal to three (3) months estimated average bill as described in Section VII - 1 (c) of this ordinance. However, if water or electric service is terminated to that tenant for delinquency in payment, a deposit in an amount equal to three (3) months estimated average bill pursuant to Section VII -1 (c) of this ordinance shall be collected before such City water, electric, or sewer, service is resumed. Any service account for water, sewer, or electric, service established after the passage of this Section shall be subject to paragraphs "a" and "b" above of this subsection.

d. The declaration of rental property shall be valid only so long as the person making such declaration owns such property, rents such property to another, and the tenant of such property carries the City water, sewer, or electric, services in the tenant's name. The owner may revoke the declaration of rental property at any time by so notifying the City in writing.

7. After the City of Llano has terminated a customer's utility, water, sewer, garbage and/or electric pursuant to the requirements of this Ordinance, or after the City terminates utility service(s) at a customer's request, the Utility Service Office Supervisor shall report to credit service(s) relevant payment information on all persons or entities listed above when payment of the utility account remains delinquent for more than ninety (90) days. The City shall have the

authority to report the payment history to other utility service providers. The City shall have the authority to authorize and direct the city attorney to file suite to collect amounts owned the City for utility services and charges that remain delinquent for ninety (90) days or more.

8. The City may file a lien against the utility customer. The City shall file a lien on the property on which the account is serviced.

IX. FEES

Returned Check Charge	\$25.00
Service Charge	\$20.00
Transfer Fee	\$25.00
After Hours Service Charge (After 4 pm, Before 7 am Weekends and Holidays)	\$45.00
Two (2) Week Cleanup Charge	\$ 5.00 plus usage
Re-Read Charge	\$10.00

X. ADJUSTMENTS

If a meter accuracy test discloses a registration error of more that 4%, either fast or slow, all customer bills affected by such error shall be approximately adjusted, based on the best information available, except that adjustments will not be retroactive more than one (1) year, or to the last test, whichever was most recent. If an accuracy test is conducted at the request of the customer, and such test reveals the meter registration correctly within the established limits, the customer shall pay the cost of the accuracy test, plus a re-read fee.

XI. COMPLAINTS

The City shall promptly investigate customer complaints and advise the customer of the results. A written record of the details of all customer complaints shall be kept for a period of one (1) year. Work orders shall be written when complaints warrant action, and a copy shall be kept on file. Complaints which require no investigation or action need not be recorded.

XII. APPEALS

A customer may appeal the application of any provision of these Service Regulations to the Utility Director. If satisfactory resolution is not obtained at that level, the appeal may be taken to the City Manager, whose administrative decision is final. During the appeal process, disconnection of utilities shall not take place pending final resolutions.

XIII. SUPPLYING AND TAKING OF SERVICE

1. Supply of Service

Llano utility services are supplied at rates which are established by City Council, and amended from time to time. The City shall bear no responsibility for any occurrence or condition beyond the point of delivery of service. Any departure from these conditions shall be the subject of a special contract negotiated between the City and the customer.

2. Continuity of Service

The City will use all reasonable care and diligence to provide dependable and uninterrupted service, but provides no guarantee against irregularities or interruptions. Without incurring any liability, the City may change or interrupt utility service when necessary for maintenance, repair or system improvement, but will do so in such a manner as to cause the least possible customer inconvenience. The customer will hold the City harmless from and against all claims for injury or damage to persons or property arising from irregularities or interruptions of the delivery of utility services. The City shall be responsible for all costs associated with the maintenance and replacement of all electric meters, and water meters of three quarter (3/4) inch size or less.

3. Customer Responsibility

The customer assumes all responsibility for any occurrence or condition on the customer side of the point of delivery. The customer shall not utilize any City utility service for resale, except by means of a contract with the City for that purpose. All utility apparatus, materials, and workmanship installed by the customer shall be selected and maintained with the intent of obtaining the maximum in safety, efficiency and protection of facilities. Customer has the obligation to notify the City before making any substantial change in obligation for service that is indicated on the UTILITY SERVICE APPLICATION & AGREEMENT. Customer has the responsibility to protect City service apparatus on customer's premise from any use, repair, alteration or damage by anyone other than employees or agents of the City. Customer is financially responsible for loss of water or electricity on the consumer customer side of the point of delivery, unless such loss is due to negligence on the part of the City. When a new or re-connect of utilities is made, the customer must be physically present at the site of the meter or else must present to the City a signed statement or release of liability for such action. Customers shall pay for the placement, replacement, or repair of all water meters of greater than three quarter (3/4) inch in size.

4. City Inspection

The City retains the right, but does not assume the duty, to inspect customer's

installations at any reasonable time, and to take appropriate action in the event such installations do not conform to the regulations herein. Any customer who obtains utility service from the City by circumventing or tampering with any City utility metering device or appurtenance, or by any other means damages any facility, or interferes with the intended manner of providing utility service shall be in violation of these regulations. Evidence of such violation of these regulations shall be prima face evidence of intention to defraud the City of Llano and shall result in prosecution as provided by law.

XIV. CUSTOMER ASSENT

All provisions of these regulations shall be deemed to be incorporated into a contract between the City of Llano and its customers, and by the act of applying for and accepting utility service from the city, customer assents to the knowledge and acceptance thereof, as evidence by the signing of the customer's UTILITY SERVICE APPLICATION & AGREEMENT.

XV. AMENDMENTS TO REGULATIONS

Following initial adoption by the city council, these regulations may be administratively amended from time to time.

XVI. EFFECTIVE DATE

These regulations replace any and all utility regulations previously approved, and are effective upon adoption by the city council.

XVII. PENALTY

Any person or corporation violating any provision of this ordinance shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be fined in a sum not to exceed five hundred dollars (\$500.00). Each day that such violation shall exist shall constitute a separate violation.

XVIII. APPENDAGES

Appended hereto, Exhibit "A", RELEASE OF MUNICIPAL UTILITY LIEN;
Appended hereto, Exhibit "B", MUNICIPAL UTILITY LIEN;
Appended hereto, Exhibit "C", RENTAL PROPERTY DECLARATION;
Appended hereto, Exhibit "D", UTILITY SERVICE APPLICATION & AGREEMENT.

PASSED AND APPROVED this the _____ day of March, 2006.

Roger M. Pinckney, Mayor

ATTEST:

Kerry Williams, City Secretary