

RESOLUTION #010-13

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS
REGARDING DELINQUENT UTILITY ACCOUNTS**

WHEREAS, the City of De Leon, Texas (the "City") provides water, sewer and solid waste disposal utility services (each a "utility service") and sometimes collectively referred to as the "utility services") to its citizens; and

WHEREAS, the City of De Leon, Texas (the "City") will no longer allow payment agreements on utility accounts effective September 1, 2013. If you are currently on a payment agreement as of September 1st, 2013, then you will have sixty (60) days to bring your account into good standing or your service will be disconnected for non-payment

WHEREAS, the City Council desires to establish a policy regarding delinquent utility accounts so as to minimize the loss of taxpayer money due to customers' failure to pay their utility accounts.

THEREFORE, BE IT RESOLVED, that the City of De Leon hereby adopts the following policy regarding delinquent utility accounts for utility services:

1. When bills are due.

The minimum monthly billing cycle for utility services, which shall include, water and solid waste disposal, shall be as follows:

- A. Bills for utility services shall be mailed to City customers each month on or before the thirtieth (30th) of each month. The bill date is the date that payment becomes due (the "due date").
- B. The bill shall be delinquent if not paid in full by the tenth (10th) day of each month (the "delinquent date").
- C. For any bill not paid in full by the delinquent date, a notice of delinquency shall be mailed to the City customer. The notice of delinquency shall state that if the bill is not paid in full by the twentieth (20th) day of each month, utility services shall be disconnected. The twenty-first (21st) is (the "disconnection date").

2. Failure to receive bill or notice of delinquency does not excuse nonpayment.

A customer's failure to receive a utility bill shall not excuse failure to pay the same before it becomes delinquent. Failure to receive a notice of delinquency shall not excuse nonpayment or prevent disconnection. Service will not be disconnected for failure to pay the current month's penalty. Failure to pay penalties assessed in prior months will result in disconnection.

3. Delinquencies-penalties.

A utility services account becomes delinquent if payment is not received by the City before 5:00 p.m. on the 10th day of the month. A check or bank draft that is dishonored by the customer's bank does not constitute payment of a utility service account. A ten (10) percent late charge or penalty shall be applied to delinquent accounts for each month that a bill is delinquent.

4. Delinquencies-Application of Deposit to Unpaid Charges.

Deposits shall be applied to unpaid charges when an account is closed for any reason. When the deposit is insufficient to satisfy the unpaid charges, the City will bill the customer for any deficiency.

5. Returned check policy.

A fee shall be charged for processing each check or bank draft given in payment for utility services, which is dishonored by the customer's bank for any reason. On or after the disconnect date shown on the customer's invoice, utility service is subject to immediate disconnection when the City's bank notifies the City that the customer's check or bank draft has been dishonored. The City will not accept payments made by check or bank draft for charges owed on any utility accounts of a customer who has had three (3) or more checks dishonored within a period of one (1) year. Payments must be made by cash, cashier's check or money order until the customer has maintained service in the name (including transfers, new meters and address changes) for at least twelve (12) consecutive months, without having service disconnected for non-payment or two or more penalties assessed for late payment.

6. Customers receiving Social Security Benefits.

If you receive Social Security and you can provide proof to the City, then your account will be flagged so that you will not be disconnected. However, if your bill is not paid in full by the first (1st) of the following month your service will be disconnected for non-payment.

7. Involuntary Disconnection of Utility Services.

Utility services may be disconnected or discontinued by the City for any of the following reasons:

- (a) for delinquent, unpaid charges on the disconnection date:
- (b) If a customer receives service at more than one (1) location in the City, has more than one (1) account for utility service with the City and is delinquent on any one (1) account with the City on the disconnection date, the City may

discontinue the utility service at the other location until the delinquent utility bill is fully paid, even if the utility account at the other location is current:

8. Reconnection after disconnection for non-payment.

Utility customers whose service has been disconnected for non-payment are entitled to have service reconnected upon payment of the following charges:

- (a) utility charges which are due or delinquent;
- (b) reconnect-disconnect fee in the amount of \$50.00 (during 8:00 a.m. – 5:00 p.m.) and \$60.00 (for after 5:00 p.m.) per meter as may be amended by the City;
- (c) service charges incurred for tampering with or damaging meters, padlocks and locking devices; and
- (d) deposit in the amount which would be required to institute new service which currently are as follows:
 - Residential (homeowner/renter) - \$75.00
 - Commercial - \$80.00

Persons requesting new service at an address where service has been disconnected for non-payment must present evidence of a lease, rental agreement or other real property transaction, for purposes of verifying that service is not being restored to the customer whose non-payment precipitated disconnection. Persons who reside with a customer whose service has been disconnected for non-payment are not eligible for new service at that residence until all conditions for reconnection are met.

9. Liens for delinquent utility bills.

The City may impose a lien against property that is not protected by the Texas Constitution as a homestead, for delinquent bills for municipal utility service to the property. Liens for delinquent utility bills shall be created by ordinance and perfected by recording in the real property records of the county where the property is located a notice of lien containing a legal description of the property and the account number for the delinquent charges. Liens may include penalties, interest and collection costs. A lien for utility service is inferior to a bona fide mortgage lien that is recorded before the recording of the City's lien in the real property records of the county where the property is located. The City's lien is superior to all other liens, including previously recorded judgment liens and any liens recorded after the City's lien. A lien shall not apply to bills for service connected to a tenant's name after notice by the property owner to the municipality that the property is rental property.

10. Payment Arrangements by City Council.

- (a) All payment plans must be brought before council for approval. The city clerks may no longer do this in house. An extension or deferred payment agreement between the city and the customer has been completed requiring a payment of 25% of the past due amount at the time the agreement is made and payment of the remaining 75% of the past due amount within sixty (60) days or services will be discontinued and turned over to collection. Payment agreement must be signed in order for the agreement to be in place; if the agreement is not signed, your service will be disconnected. **Each customer will be limited to a maximum of four (4) extensions or deferred payment agreements per calendar year.**
- (b) All meetings of the City Council shall be public, and the customer, his representative, the City Secretary and any other person whose interest may be affected by the matter on the arrangement shall be given an opportunity to be heard. The Mayor, or in his absence, the mayor pro-tem, may administer oaths and compel the attendance of witnesses. Any decision of the City Council shall be recorded in the minutes and shall be in writing. Such record, immediately following the City Council's decision, shall be filed in the office of the City Secretary, who, upon request, shall promptly furnish a copy to the customer, his representative, and any person who has filed a written entry of appearance.
- (c) Every decision of the City Council shall be final, except when such decision shall affect vested rights of the customer to the extent that the customer may have a legal right to pursue a remedy in a court of competent jurisdiction. In such a case, the decision of the City Council shall only become final if no appeal of that decision is made by filing a suit in a court of competent jurisdiction within thirty (30) days of the date of their ruling.
- (d) Pending the decision to the City Council, the City Secretary's decision to disconnect utility service shall remain in place and utility service shall not be provided until the City Council reverses the decision.

11. Agreement

* See following page for Agreement Form that must be on file with the City *

ADOPTED AND APPROVED THIS THE 15TH DAY OF AUGUST, 2013.



ATTEST:

Karen Wilkerson

Karen Wilkerson,
City Administrator/Secretary

Lowell Ercanbrack

Mayor, Lowell Ercanbrack

City of De Leon Delinquent Utility Agreement

_____ The City has advised me that I am responsible for satisfying the balance owed on my utility account in the amount of \$_____.

_____ I assert that I am too poor to pay the balance owed on my account immediately.

_____ I require that the City grant me an extended payment to a later date.

Name: _____ **Telephone:** _____

Address: _____

Driver's License #: _____

Employer: _____

Job Title: _____

Employer's Address: _____

Salary: \$_____ per _____

Employer's #: _____

Marital Status: (Check One) Married__ Single____ Divorced__ Widowed__

Spouse's Name: _____

Spouse's Salary: _____

Spouse's Employer: _____

Job Title: _____

Customer Signature/Responsible Party

Date of Agreement