

ORDINANCE NO. 1738

AN ORDINANCE DECLARING AND ESTABLISHING POLICIES AND PROCEDURES WITH RESPECT TO DELINQUENT UTILITY SERVICE BILLINGS; ESTABLISHING NOTICE REQUIREMENTS AND PROCEDURES; PROVIDING FOR HEARING AND FOR DISCONTINUANCE OF UTILITY SERVICES FOR NONPAYMENT OF ACCOUNT; PROVIDING FOR SHUT OFF CHARGES, DELINQUENCY CHARGES AND RETURNED CHECK CHARGES; AND REPEALING ORDINANCE NOS. 1438 AND 1512.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BURLINGAME:

SECTION 1. DEFINITIONS. As used in this ordinance the following definitions shall apply:

- (a) Customer shall mean the utility service account holder of record.
- (b) Person shall mean natural persons and all corporations, partnerships, associations and all other types and kinds of organizations and entities, without limitations.
- (c) Hearing officer shall mean person(s) to be approved by the City Council and appointed by the Mayor.
- (d) Utility Services shall mean electrical service, water service, gas service, sanitary sewer service and solid waste collection service.

SECTION 2. DISCONTINUANCE OF UTILITY SERVICES.

(a) The City may discontinue or refuse a particular utility service to any customer, without notice or hearing, for any of the following reasons:

- (1) When the customer so requests.
- (2) When it is determined by an employee of the City utility department, fire department or police department that the continuance of a particular utility service constitutes a dangerous condition presenting a likely immediate threat to health or safety of persons or to property on or near the customer's premises.
- (3) Nonpayment of utility bills and charges as provided in Section 4. of this ordinance.
- (4) When the customer misrepresents his or her identity or otherwise intentionally provides false information for the purpose of obtaining utility service from the City.
- (5) When the customer refuses to grant employees of the City utility department access to equipment installed upon the premises of the customer for the purpose of inspection, meter reading or maintenance or replacement.

(6) When the customer violates any rule, regulation or ordinance of the City pertaining to utility services, which violation adversely affects the safety of the customer or other persons, or the integrity of the City's utility services delivery system.

(7) When the customer attempts, causes or permits unauthorized interference, diversion, theft, tampering, damage or use of utility services or the utility services delivery system situated or delivered on or about the customer's premises.

(8) When the customer issues a check on or after the delinquency date to the City in payment of utility service which is returned by the bank as noncollectible or insufficient funds.

SECTION 3. UTILITY BILLING DATE AND DELINQUENCY DATE.

(a) Utility billings shall be mailed on or about the 20th day of each month for the previous month's service. All billings shall be due and payable upon receipt and must be paid in full by 5:00 P.M. on the 15th day of the following month unless the 15th shall be on a Saturday, Sunday or legal holiday, in which event payment shall be due by 5:00 P.M. on the next business day.

(b) Failure to make payment by 5:00 P.M. on the 15th day of the month, or as set out in subsection (a) above, shall result in the attachment of 5% penalty charge and in the mailing of notice of account delinquency and service discontinuance.

SECTION 4. NONPAYMENT OF UTILITY BILLS.

(a) An account delinquency and service discontinuation notice shall be issued in writing between the 16th and 18th day of the month with respect to any delinquent and unpaid utility service bill. Notice shall be sent by U.S. Mail to the customer. Written notice may also be provided by personal service upon the customer by an employee of the City utility department or by a City law enforcement officer or by such City employee posting the written notice upon a door of a building upon the property serviced.

(b) Notice shall also be sent by U.S. Mail to the owner of rental property stamped "Landlord Copy" and shall include the same information as provided in (c) below.

(c) The notice of account delinquency and service discontinuation shall provide the following information:

(1) Name of the customer and address where service is being provided.

(2) Account number.

(3) Date on which service discontinuation shall occur.

(4) Amount of past due bill plus delinquency charges of which failure to pay shall result in termination of utility service.

(5) Notice that the customer has the right to appear and be heard by the hearing officer during regular business hours between the date of said notice and 5:00 P.M. on the day prior to the specified shut off date.

In the event the hearing officer finds utility service should be discontinued or a limit meter installed, it shall so be ordered and the City utility department so notified. Unless otherwise ordered by the hearing officer, utility services shall be discontinued on the date that the notice of account delinquency and service discontinuation specifies.

Extensions of that date may be granted to enable the customer to make arrangements for reasonable installment payments or for other good cause as shown. In making a determination of whether service discontinuation should be ordered, the hearing officer shall consider, but not be limited to, the following factors:

(1) Whether discontinuance is dangerous to the health of the customer, the customer's family or residents of the premises.

(2) The weather

(3) Unforeseen hardships; if financial, information sufficient to determine details for entering into a payment agreement must be submitted.

(4) Medical conditions, ages or disabilities of the customer.

(5) Whether application has been made for assistance through appropriate programs.

SECTION 5. DISCONTINUATION OF UTILITY SERVICES. City utility department is hereby authorized as notified by the City Clerk to discontinue and disconnect utility services to any customer pursuant to the procedure set out in this ordinance. Customers shall remain responsible for furnishing the City with the correct address for billing purposes.

SECTION 6. LATE PAYMENT, SHUT OFF AND RETURNED CHECK CHARGES.

(a) Late payment charges. All bills delinquent after 5:00 P.M. on the 15th day of the month or as set out in Section 3, subsection (a), shall be subject to a 5% penalty on that bill.

(b) Shut off fees. Prior to reconnecting any utility service, the customer shall pay to the City the entire balance due and owing to the City at the time of reconnection. The customer shall also pay a shut off fee of \$20.00.

(c) Returned check charges. Checks issued to the City in payment of utility service and returned by the bank as noncollectible or insufficient funds shall be subject to a returned check charge of \$15.00 plus any fee charged to the City by the bank.

Any check returned without payment for any reason shall be considered the same as nonpayment of a utility bill when due and the account shall be subject to any late payment charges and discontinuance of service procedures.

If, within a twelve (12) month period, a total of three (3) checks have been returned without payment for any reason, the City may require payment of utility account to be remitted thereafter by cash, money order or cashier's check.

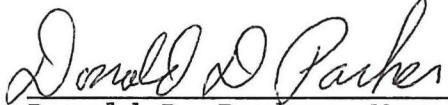
SECTION 7. METER TESTING FEE. In the event a customer requests that a meter accuracy test be done, a fee of \$50.00 must be deposited with the City Clerk before the test is done. If, upon testing, the meter shall prove to be more than 3 percent fast, the deposit shall be refunded to the customer; but, if the meter shall prove to be accurate or within 3 percent fast or slow, the deposit shall be retained by the City and deposited in the appropriate utility account.

SECTION 8. That Ordinance Nos. 1438 and 1512 are hereby repealed.

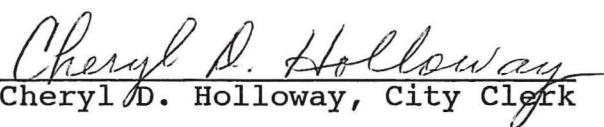
SECTION 9. That this ordinance shall take effect and be in force from and after its passage, approval and publication in the Osage County Chronicle, the official City newspaper.

PASSED AND APPROVED this 4th day of December, 1995.

ATTEST:



Donald D. Parker, Mayor



Cheryl D. Holloway, City Clerk