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ORDINANCE NO 1068

AN ORDINANCE AMENDING THE PROVISIONS OF ORDINANCE NO. 925 RELATING TO THE REGULATION OF UTILITY SERVICE IN THE CITY OF HORTON, KANSAS; AND PROVIDING FOR SUBSTITUTE PROVISIONS THEREOF

Section 1. Ordinance Number 925 is hereby amended to read as follows:

15-101. DEFINITIONS. As used in this article, 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 limitation.
- (c) Utility Services shall mean electrical service, sanitary sewer service and water service.

15-102. UTILITY DEPOSITS. (a) All persons applying for utility services from the city who do not have an acceptable credit history established with the city shall, in addition to all other charges, place on deposit with the city a utility deposit prior to receiving utility services from the city. If the person is applying for utility services to an existing dwelling, business establishment or other location, the utility deposit to be paid by the person shall be determined by computing the average of the highest utility bills for any two months in the preceding 12 month period of time. If the person is applying for utility service to a dwelling, business establishment or other location that is new and does not have a history of utility bill payments, then the deposit shall be in the amount of \$150.

15-103. 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) When the customer misrepresents his or her identity or otherwise intentionally provides false information for the purpose of obtaining utility services from the city.
- (b) The city may discontinue or refuse a particular utility service to any customer, following compliance with the notice and hearing requirements of section 15-105 of this article, for nonpayment of utility bills and charges as provided in section 15-105 of this article.
- (c) The city may discontinue or refuse a particular utility service to any customer, following notice to the customer, for any of the reasons set out in this subsection (c). The customer shall have the right to request a hearing within a reasonable time, not to exceed 10 days, following

termination or refusal of service. If after such hearing conducted pursuant to the provisions of section 15-105, the hearing officer finds in favor of the customer the hearing officer may order connection or reconnecting of the service at no cost to the customer.

(1) When the customer refuses to grant employees of the city's utility department access to equipment installed upon the premises of the customer for the purpose of inspection, meter reading, maintenance or replacement.

(2) When the customer violates any rule, regulations or ordinances 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.

(3) 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.

15-104. UTILITY BILLING DATES; DELINQUENCY DATE. Utility billings shall be mailed on approximately the 5th day of each month for the previous month's service. All billings for utility services shall be due and payable at the office of the city clerk on the 5th day of the month and must be paid in full by the 16th day of the month or the following regular business day if in the 15th day of the month is on a weekend or holiday. Failure to make payment by 5:00 p.m. on the day described herein shall constitute a delinquency and shall result in the mailing of an account delinquency and service discontinuance notice as provided in section 15-105.

15-105. NONPAYMENT OF UTILITY BILLS. (a) An account delinquency and service discontinuance notice shall be issued in writing within five days after the delinquency occurs. Notice shall be sent by U.S. mail, first class, to the customer (and a copy also sent by U.S. mail, first class, to the occupant of the premises served if the occupant is not the customer) at the last known address of the customer as shown on the records of the city. Written notice may also be provided by personal service upon the customer by an employee of the city utility department or by any city law enforcement officer or by such city employee posting the written notice upon a door of a building upon the property serviced.

(b) The notice of account delinquency and service discontinuance shall provide the following information:

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

(2) Account number.

(3) Amount past due plus delinquency charges.

(4) Notice that utility service shall be terminated upon failure to pay the delinquent billing plus delinquency charges within 10 days of the date of the mailing of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the consumer until the close of the next business day in which to pay the charges.

(5) Notice that the customer has the right to request a hearing prior to termination of services before the designated hearing officer.

(6) Notice that the request for a hearing must be in writing and filed with the city clerk no later than three working days prior to the date for termination of service.

(c) Upon receipt of a request for hearing, the city clerk shall advise the customer of the date, time and place of the hearing, which shall be held within three working days following receipt of the request.

(d) At the hearing provided for in this section, the applicant customer, and the city, shall have the right to present such evidence as is pertinent to the issue, may be represented by counsel, and may examine and cross-examine witnesses, however formal rules of evidence shall not be followed. The hearing shall be conducted by the city administrator or such other hearing officer as may be appointed by the mayor, with the consent of the governing body. In the event the hearing officer finds utility service(s) should not be discontinued, the hearing officer shall so order and advise the city and applicant customer thereof. In the event the hearing officer finds utility service(s) should be discontinued, the hearing officer shall so order and advise the city and applicant customer thereof. Unless otherwise ordered by the hearing officer, utility service(s) shall be discontinued on the date that the order of discontinuance is issued by the hearing officer. Extensions of the date of discontinuance may be granted to enable the customer to make arrangements for reasonable installment payments or for other good cause shown. The customer shall be given notice of order of discontinuance in person, or by certified mail.

15-106. DISCONTINUANCE OF UTILITY SERVICES. City utility departments are hereby authorized to discontinue and disconnect utility services to any customer pursuant to the procedures set out in this article. Customers shall remain responsible for furnishing the city with the correct address for billing purposes.

15-107. LIEN UPON CUSTOMER'S PROPERTY. In the event any person shall neglect, fail or refuse to pay within 10 days following notice of discontinuance the utility billings and charges shall constitute a lien upon the real property of the customer served by the connection to the utility service, and shall be certified by the city clerk to the county clerk of Brown County, Kansas, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are by law collectible.

15-108. LATE PAYMENT CHARGES, RECONNECTION FEES AND UTILITY DEPOSITS FOR RECONNECTED CUSTOMERS.

(a) Late Payment Charges. All bills delinquent after the 16th day of the month of the billing shall be subject to a 10 percent penalty.

(b) Reconnection Charges. Prior to reconnecting a utility service disconnected following a delinquency, 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 reconnection charge of \$10 for reconnection of electric service, \$10 for reconnection of sanitary sewer service, and \$10 for reconnection of water service.

(c) Utility Deposits for Reconnected Customers. If a utility service customer is disconnected pursuant to the provisions of this article then that person will be required, prior to reconnection, and in addition to any reconnection fee, to deposit with the city the utility service deposit in an amount as described in section 15-102 of this article.

15-109. RECEIPT OF INSUFFICIENT FUNDS CHECKS FOR PAYMENT OF UTILITY BILLS. (a) A \$30 service charge shall be made on all insufficient funds checks received by the

city on utility bill payments. This service charge shall be added to the utility service account of the customer.

(b) No post-dated checks shall be accepted for payment of utility bills.

(c) If a utility service customer makes payment of his or her utility bill with an insufficient funds check two times within a 12 month period of time, that customer shall be required, at that time, to make a utility service deposit with the city in the amount described in section 15- 102 of this article.

Section 2. Repeal of Conflicting Ordinances. Any ordinance or section of any ordinance in conflict with this ordinance shall be and the same is hereby repealed.

Section 3. This ordinance shall take effect upon its passage and publication in the official City newspaper.

PASSED, APPROVED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF HORTON, KANSAS this 21 day of February, 2006.

Mayor

ATTEST:

City Clerk