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ORDINANCE NO. 1111

AN ORDINANCE AMENDING SECTIONS 15-103(b)(2), 15-104, 15-105 AND 15-109 OF THE HORTON MUNICIPAL CODE REGARDING UTILITIES IN THE CITY LIMITS OF THE CITY OF HORTON, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HORTON, KANSAS:

Section 1. Section 15-103(b)(2) of the Horton Municipal Code is hereby amended to read as follows:

“15-103. DISCONTINUANCE OF UTILITY SERVICES.

(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 any of the following reasons:

(2) When the customer misrepresents his or her identity or otherwise intentionally provides false information for the purpose of obtaining utility services from the city.”

Section 2. Section 15-104 of the Horton Municipal Code is hereby amended to read as follows:

“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 16th day of the month is on a weekend or holiday. Failure to make payment by 5:00 p.m. on the “paid in full” due date shall result in the mailing of an account delinquency and service discontinuation notice pursuant to Section 15-105.”

Section 3. Section 15-105 of the Horton Municipal Code is hereby amended to read as follows:

“15-105. NONPAYMENT OF UTILITY BILLS. (a) An account delinquency and service discontinuance notice shall be issued in writing within five days after the “paid in full” due date described in section 15-104 with respect to any delinquent and unpaid utility service bill. 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 appear and be heard at a hearing before a designated city hearing officer on a hearing date set by the city.

(6) Notice that the request for a hearing must be in writing and filed with the city clerk no later than three 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. The notice of account delinquency and service discontinuance shall be in substantially the following form:

**NOTICE OF ACCOUNT DELINQUENCY AND
SERVICE DISCONTINUANCE**

To: _____ your electrical and/or sanitary sewer and/or water) billing in the amount of \$ _____ which was due _____, 20____, remains unpaid and is now delinquent. The delinquency charge to be added to your bill is \$_____. You are hereby notified that the city intends to terminate your service on _____, 20____ at _____, ____m., unless you pay the amounts due as above stated or unless good cause can be shown as to why such service should not be terminated. You are further notified that you have the right to request a hearing before a hearing officer designated by the City of Horton, Kansas to show good cause as to why your service should not be terminated for nonpayment of charges. Said request for a hearing must be in writing and filed with the city clerk no later than three days prior to the date for termination of service. Upon receipt of a request for hearing, the city clerk shall advise you of the date, time and place of the hearing which shall be held within three working days following receipt of the request. Should you fail to attend the hearing then such service or services shall be discontinued immediately following the time scheduled for said hearing.

Dated _____, 20____, City of Horton, Kansas.

By: _____

(d) In the event a hearing is requested, 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 designated by the governing body. Following the hearing, if the hearing officer shall find that service should not be terminated, then notice of such finding shall be presented to the city clerk. If the officer finds that service should be terminated, an order shall be issued terminating service five days after the date of the order. The customer shall be notified either in person or by mailing a letter to his or her last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The hearing officer has a right, for good cause, to grant an extension, not to exceed 10 days, for the termination of such service.

Section 4. Section 15-109 of the Horton Municipal Code is hereby amended to read as follows:

“15-109. RECEIPT OF INSUFFICIENT FUNDS CHECKS FOR PAYMENT OF UTILITY BILLS. (a) A service charge equal to the amount authorized for recipients of insufficient funds checks by K.S.A. 21-3707 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 5. That all ordinances or parts of ordinances in conflict with this ordinance be and are hereby repealed.

Section 6. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED BY THE GOVERNING BODY of the City of Horton, Kansas, this ____ day of June, 2010.

MAYOR

ATTEST:

CITY CLERK