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3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. 15 - 2012

6
7 AN ORDINANCE AMENDING SECTIONS 921.01, 921.02
8 921.03 and 921.06 OF TITLE FIVE, PART NINE OF THE
9 CODIFIED ORDINANCES, RELATING TO UTILITY
10 ACCOUNTS AND CUSTOMER DEPOSITS, AND
11 DECLARING AN EMERGENCY.
12

13
14 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit,
15 and State of Ohio, that:

16
17 Section 1. Sections 921.01, 921.02, 921.03 and 921.06 of the Codified Ordinances
18 of the City of Cuyahoga Falls are hereby amended to read in full as follows (new text
19 underlined; deleted text in ~~strikethrough~~):
20

21 921.01 PURPOSE; DEFINITIONS.

22
23 (a) This chapter governs the provision of utility billing services, including those for
24 water, sewer, electric and sanitation and any other utility services provided by
25 the City, and all matters related to operation and maintenance, including but
26 not limited to the establishment, billing, termination, disconnection, and re-
27 connection of service, and any and all other subjects as may be incident thereto.
28 The Director of Public Service is hereby authorized to promulgate rules and
29 regulations concerning the provision of utility services in accordance with
30 ~~ordinance~~ this Chapter.
31

32 (b) As used in this chapter:

33 (1) "Premises" ~~includes~~ means any lot, or other parcel, premises,
34 condominium, or any other interest in of real or personal property
35 that is serviced with City utilities, regardless of the use of said
36 premises recognized by the Summit County Fiscal Officer for tax or
37 assessment purposes, even if exempt from taxation, as well as any
38 residential, commercial or institutional units thereof that are
39 separately metered for utility service.

40 (2) "Customer" ~~or "Customers"~~ includes all means any person,
41 corporation, or other entity that:

42 (A) ~~a persons having utility~~ has established an accounts with the
43 City for the purpose of purchasing any utility service, or

44 (B) is the Owner of any Premises served by a water and/or sewer
45 connection, or

46 (C) is in lawful possession of a Premises receiving any Utility
47 Service, by lease, rental agreement, decree of foreclosure, a
48 will or probate administration, power of attorney, receivership,
49 or other means.

50 (3) "Utility Service" ~~includes~~ means any of the City's electric, water,
51 sewer, and sanitation services.

52 (4) "Owner" means the person, corporation or other entity whose name
53 appears on the Summit County tax duplicate as the owner of any
54 Premises, and any successor or transferee of such person,
55 corporation or other entity.

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(5) An Owner who is deemed a Customer at any Premises solely by operation of division (2)(B) of this subsection shall be deemed a Customer only with respect to the water and sewer services used there.

921.02 ESTABLISHING UTILITY SERVICE.

(a) Customers may establish a utility account service with the City by application providing such information as the City determines necessary, and paying the appropriate deposit as provided herein. The City shall not provide a utility account to any person who has an delinquent unpaid balance on any other utility account with the City, unless the same is subject to an order of relief, or has been discharged, in bankruptcy.

(b) Water and sewer accounts will be established and shall remain in the name of the owner of the premises served thereby, and the owner of any premises shall be and remain primarily liable for water and sewer charges incurred there. However, water and sewer accounts may additionally be placed in the name of a tenant or other customer who agrees to be secondarily liable for water and sewer charges incurred at the premises served. Water and sewer bills may be combined with other utility service bills in order to produce a single combined bill to be provided to a tenant or other customer who is not the owner. The combination of bills in this manner shall not affect the owner's primary liability for water and sewer charges. Unless otherwise requested by the payor at the time of payment, payments made on a combined bill will be apportioned to the various utility account balances at the City's discretion. Utility customers who are renting the premises to which utilities utility services are to be provided shall provide the City with a copy of a signed lease, rental agreement, or other document, valid as of the date of the application, which sets forth, as between landlord and tenant, their respective obligations to pay utility bills. to the premises in the customer's name. The City may require proof of ownership before creating an account in the name of an owner.

~~(c)(b)~~ By having establishing a utility account, the customer assents, is deemed to agree ~~and commits himself~~ to all rules and regulations governing utility services and to pay all lawful charges related to the furnishing of any City utilities services to the customer's premises.

921.03 DEPOSITS, SERVICE CHARGES.

(a) Except as provided in subsection (b) of this section, Utility customers shall pay the following applicable deposits indicated in the following table upon application for any utility service. Except as provided in subsections (b) and (d) below, once a deposit has been placed on account for any utility service at any Premises, no further deposit shall be required of that customer for that account. Deposits will not earn interest.

<u>Type of Premises</u>	<u>Type of Customer</u>	<u>Deposit</u>
Residential Apartment	Property Owner	No Deposit
	Renter	\$200.00
Residential Single Family, Townhouse or Duplex	Property Owner	No Deposit
	Renter	\$250.00

112	Residential All Electric	Property Owner	No Deposit
113		Renter-	\$250.00
114			
115	Commercial (Small/Medium)	Owner/Renter-	Lesser of 2
116	<u>(GSS and GSM electric schedules;</u>		Months usage
117	<u>water meters less than 1")</u>		or \$1,000, but
118			<u>not less than</u>
119			<u>\$250.00</u>
120			
121	Commercial (Large/Distribution)	Owner/Renter-	Lesser of 2
122	<u>(all other commercial electric schedules;</u>		Months
123	<u>water meters 1" or greater)</u>		usage or
124			\$10,000
125			

126 (b) Required deposits must be received by the Utility Billing Department before
 127 new service or a new account will be established. Notwithstanding subsection
 128 (a), but subject to subsection (d) below, the following conditions shall apply to
 129 any request to establish new service, open new account, or re-establish service
 130 after involuntary termination:

- 131
- 132 (1) A deposit will not be required of a bona fide owner-occupant of a
 133 residential premises, unless the customer has twice been delinquent on a
 134 utility account within the prior two years.
- 135 (2) A deposit will not be required of an Owner to secure water and sewer
 136 accounts if a tenant or other customer has placed a deposit on the
 137 account or is exempt from placing a deposit pursuant to subsection (b)(3)
 138 below.
- 139 (3) A deposit will not be required of any prior customer whose immediate
 140 past account history with the City is twenty-four (24) consecutive bills
 141 each paid in full by the due date.

142

143 (c) The deposits will be held in trust for the customer's account and will be
 144 applied to the account and/or refunded to the customer as follows upon:

- 145
- 146 (1) When all accounts held by a customer at a premises are voluntarily
 147 closed, any deposit on those accounts will be applied to the final bill, and
 148 a refund of any remaining balance will be paid to the depositing
 149 customer. Discontinuance of utility service and settlement of charges to
 150 the final meter reading
- 151 (2) When any utility service is involuntarily terminated, or the Premises
 152 served by a delinquent account is vacant or abandoned, the customer's
 153 accounts at that premises may be closed if the customer does not
 154 reestablish service within fourteen (14) days of termination, or bring the
 155 account current within fourteen (14) days' notice to do so. In that event
 156 a final bill shall be prepared, any deposit on those accounts will be
 157 applied to the final bill, and a refund of any remaining balance will be
 158 paid to the depositing customer.
- 159 (3) When a customer pays each of twenty-four (24) consecutive bills at any
 160 premises in full by the due date, the customer's deposit on accounts at
 161 that premises shall be refunded to the depositing customer. Said
 162 deposits shall be due on the opening of each new account. If a customer
 163 opens a new account and has a record with the City of paying all utility
 164 charges in full and on time for the most recent twelve month period of
 165 any prior account, the Director of Public Service may waive the deposit
 166 required herein.

167 (4) The accounts of a customer who becomes a petitioner in U.S.
168 Bankruptcy Court shall be closed, with final charges prorated as of the
169 petition date. Any deposit held on the accounts will be applied to any
170 outstanding pre-petition balances of that customer, and any remaining
171 balance will be paid to the depositing customer.

172 (5) Notwithstanding divisions (1) through (4) of this subsection, a deposit
173 placed by an Owner solely to secure water and sewer accounts at a
174 tenant-occupied premises shall not be applied to settle outstanding
175 balances on any account except water and sewer accounts at that
176 premises. A deposit placed by a tenant or other customer shall not be
177 applied to settle outstanding water and sewer account balances unless
178 there are no other outstanding account balances at that premises and
179 the tenant or other customer has previously agreed to be responsible for
180 water and sewer charges. Application of tenant deposits to water and
181 sewer charges does not affect the Owner's primary liability for water and
182 sewer charges that remain unpaid.

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184 (d) Any new account opened by a bankrupt customer or a customer that has been a
185 petitioner in bankruptcy in the previous six (6) years shall be subject to the
186 deposit requirements of Subsection (a) of this Section, without regard to the
187 deposit waiver provisions of Subsection (b). Charges on a new account opened
188 at the same location by the bankrupt customer shall be prorated forward from
189 the petition date. A bankrupt customer who does not open a new account and
190 pay a new deposit in accordance with this subsection within twenty (20) days of
191 the order for relief issued in the customer's bankruptcy case shall be subject to
192 termination of service.

193
194 (b)(e) The following service charges shall apply to all customers:

SERVICE	CHARGE
199 Connection, reconnection or disconnection 200 of <u>any utility customer's</u> service at the request of 201 the customer on <u>Saturdays, Sundays and holidays,</u> 202 and after 5:00 p.m. (in addition to full 203 payment of unpaid utility balance)	\$100.00
205 Connection, R reconnection or of service after- 206 disconnection of any utility service at 207 the request of the customer for nonpayment 208 on regular business days from 8:00 a.m. to 209 5:00 p.m. (in addition to full payment of unpaid 210 utility balance)	\$50.00
212 Electric and water meter testing at the 213 request of the customer. Should the meter 214 be found to register more than two percent 215 high, the fee shall be returned to the customer.	\$25.00
217 Late payment penalty, charged for each 218 bill that is not paid in full by the due date 219 shown on the bill. For purposes of this 220 provision, a bill is considered paid 221 when the payment is received by the City.	10% of bill

222 This provision shall take effect September 1, 2007

223

224 Charge for NSF or Account Closed Check \$30.00

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226 Nonrefundable Application Initiation Fee \$10.00

227 to establish Account

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229 (f) The fees provided for under Subsection (e) shall be waived as follows:

230 (1) Connection fees shall be waived for a new customer opening a new

231 account and physically occupying the premises served.

232 (2) Disconnection fees shall be waived where an active customer requests a

233 final reading, permanently closes the account, and physically vacates the

234 premises served.

235 (3) Disconnection and reconnection fees shall be waived when, in the

236 opinion of the Director of Public Service, the request was made as a

237 result of a bona fide emergency such as fire, flood, or storm damage

238 resulting from no fault of the requesting customer.

239 (4) The nonrefundable application fee shall be waived if the customer has

240 had an active utility account within the previous twenty-four (24)

241 months, or has made an application within the previous twenty-four (24)

242 months.

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245 921.06 TERMINATION OF SERVICE, GENERALLY.

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247 The City may terminate utility service to any premises, in accordance with the

248 procedures set forth by ordinance and related rules and regulations, for any of the

249 following reasons

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251 (a) Non-payment of a bill; or

252 (b) Request of the customer; or

253 (c) Tampering with a meter for the premises by the customer or consumer; or

254 (d) Failure to install remote reading meters in accordance with ordinance and

255 related rules and regulations; or

256 (e) Failure of the customer or consumer to permit the City access to the meter(s); or

257 (f) Emergency termination for repairs or for the protection of the health, safety and

258 welfare of others; or

259 (g) Failure to install meters within ten days after purchase and/or failure to have

260 the installed meter inspected; or

261 (h) Failure of a customer to place a deposit or pay a service charge required by

262 Section 921.03; or

263 (i) Failure of a bankrupt customer to open a new account and place a deposit

264 within twenty (20) days of the order for relief in the customer's bankruptcy case.

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266 Section 2. Existing Sections 921.01, 921.02, and 921.03 of the Codified

267 Ordinances, as enacted by Ord. No. 79-2007, passed June 18, 2007, are hereby

268 repealed. Existing Section 921.06 of the Codified Ordinances, as re-enacted by Ord. No.

269 45-1998, passed March 9, 1998, is hereby repealed.

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271 Section 3. Any ordinances or resolutions or portions of ordinances and resolutions

272 inconsistent herewith are hereby repealed, but any ordinances and resolutions not

273 inconsistent herewith and which have not previously been repealed are hereby ratified

274 and confirmed.

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276 Section 4. It is found and determined that all formal actions of this Council

concerning and relating to the passage of this ordinance were taken in an open meeting

277 of this Council and that all deliberations of this Council and of any committees that
278 resulted in those formal actions were in meetings open to the public, in compliance with
279 all requirements including Chapter 107 of the Codified Ordinances.

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281 Section 5. This ordinance is hereby declared to be an emergency measure necessary
282 for the preservation of the public peace, health, safety, convenience and welfare of the
283 City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the
284 affirmative vote of two-thirds of the members elected or appointed to Council, it shall
285 take effect and be in force immediately upon its passage and approval by the Mayor;
286 otherwise it shall take effect and be in force at the earliest period allowed by law.

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Passed: 2-13-12

Mark Manz
President of Council

Cathleen J. Meacham
Clerk of Council

Approved 2/14/12

D. Kobart
Mayor

1/23/12

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