

**ORDINANCE NO. 041321-1**

**AN ORDINANCE OF THE CITY OF HASKELL, TEXAS REPEALING AND REPLACING ORDINANCE NO. 102218-2; AMENDING CHAPTER 18, UTILITIES, OF THE CODE OF ORDINANCES OF THE CITY OF HASKELL, TEXAS; PROVIDING PROCESSES FOR LATE FEE EXEMPTIONS AND DUE DATE EXTENSIONS FOR CERTAIN CUSTOMERS; CLARIFYING ACCOUNT TERMINATION PROCEDURES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 552 of the Texas Local Government Code states that a city may operate a utility system and may regulate the system in a manner that protects the interests of the city, and may establish a procedure for billing and collecting payment for the provision of utility services to its citizens;

**WHEREAS**, the City Council of the City of Haskell (the “City Council”) adopted a comprehensive utility ordinance on October 22, 2018 but wishes to amend that ordinance to establish a process whereby citizens on fixed incomes may be exempted from late fees;

**WHEREAS**, the City Council also desires to incorporate the provisions of Chapter 182, Subchapter A of the Texas Utilities Code, which provides that a public utility must delay the due date of an elderly individual’s utility bill, without penalty, upon the request of that individual;

**WHEREAS**, the City Council further finds it prudent to clarify its termination procedures and allow a customer whose account may be terminated an opportunity for a hearing with the City Administrator to contest said termination; and

**WHEREAS**, the City Council finds that the regulations contained in this Ordinance are in the best interest of the health, safety, and welfare of the citizens of the City of Haskell and promote efficient government operations.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASKELL, TEXAS:**

- I. **Repeal**. Ordinance No. 102218-2, adopted on October 22, 2018 is hereby repealed.
- II. **Enactment**. The following Ordinance is hereby adopted to be codified in Article I of Chapter 18 of the Code of Ordinances of the City of Haskell:

**CHAPTER 18 – UTILITIES  
ARTICLE I. IN GENERAL**

**Sec. 18-01. Connection Required.**

(a) Except as provided below, all residences and/or business within the city limits shall be required to connect to the City’s water system and sewer system where such utilities are available,

except in such areas as the City cannot reasonably supply service mains, such determination of reasonableness to be made by the City.

(b) Any residence and/or business within the city limits that is connected to and using well water on October 22, 2018 shall be exempt from connecting to the city's water system until such time as ownership of the property transfers from the person who owns the property on October 22, 2018.

**Sec. 18-02. Rates for Water and Sewer Service.**

All water and sewer rates, to be charged monthly, shall be set by the City Council annually in conjunction with the budget process. A copy of the current Utility Fee Schedule may be obtained at City Hall.

**Sec. 18-03. Deposits.**

Deposits shall be as set by the City Council in the Utility Fee Schedule Ordinance. Pursuant to Section 552.0025 of the Texas Local Government Code, the City Council may require varying utility deposits for customers as it deems appropriate in each case. A copy of the current Utility Fee Schedule may be obtained at City Hall.

**Sec. 18-04. Billing Policy.**

(a) Due Date. All bills for utility service shall be due and payable on the fifteenth (15<sup>th</sup>) day of each month, or the next business day thereafter.

(b) Late Fee. Unless as otherwise provided by this Section, a late fee, as established in the Utility Fee Schedule, shall be assessed on all accounts that are not paid in full by the due date.

(c) Second Notice. If payment is not received by the due date described by subsection (a), on the following business day a second notice will be sent to the customer assessing a late fee and advising the customer that the account is past due and must be paid within ten (10) calendar days from the date of the second notice or utility services will be disconnected.

(d) Hearing. The notice described by subsection (c) shall also advise the customer that the customer may request a hearing to protest the proposed termination of service by contacting City Hall. If a customer requests such a hearing, it shall be held by the City Administrator at the earliest possible date and time within the ten (days) prior to scheduled termination of service. The determination of the City Administrator regarding the termination of service made at the hearing shall be final.

(e) Disconnection. Utility accounts which are not paid in full within the ten (10) calendar days provided in the second notice shall be disconnected for non-payment. A disconnection fee, as established in the Utility Fee Schedule, shall be assessed upon disconnection.

(f) Lien. The City may impose a lien against a customer's property, unless it is homestead property protected by the Texas Constitution, for delinquent bills for City utility service to the property. The lien shall be perfected by recording in the Real Property Records of Haskell County,

Texas a notice of lien containing a legal description of the property and the City's utility account number for the delinquent charges. The lien may include penalties, interest, and collection costs. The lien will be inferior only to a bona fide mortgage lien that is recorded before the City's lien is recorded. The lien will be superior to all other liens, including previously recorded judgment liens and any liens recorded after the City's lien.

(g) Exemptions.

(1) Late Fees for Certain Customers. Customers who receive governmental assistance as their only means of support may apply to the City Administrator for a waiver of late fees. The City Administrator shall grant an exemption upon receiving proof of a customer's income and the date it is received by the customer. Once an exemption has been granted by the City Administrator, it shall remain in place so long as the customer who applied for the exemption is the primary user of the account and the account remains active.

(2) Elderly Customers. A residential customer who is 60 years of age or older may request that the due date for payment on a utility account be delayed, without penalty, until the 25<sup>th</sup> day after the date the bill is issued, as long as he or she occupies the entire premises which receives utility service from the City. A request under this section must be made in writing to the City Administrator and must include proof of the individual's age. A request may be granted by the City Administrator for the most recent utility bill or the most recent utility bill and each subsequent utility bill.

**Sec. 18-05. Penalty.**

Any person who violates the provisions of this Chapter may be charged with a Class C misdemeanor and, if convicted, shall be assessed a fine of up to five hundred dollars (\$500.00).

III. ***Severability.*** The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance, but they shall remain in effect notwithstanding the invalidity of any other part.

IV. ***Effective Date.*** This ordinance shall take effect immediately upon its adoption by the City Council and after publication as required by the Local Government Code.

The above and foregoing ordinance was duly proposed, read in full and adopted on the 13<sup>th</sup> day of April 2021, at a regular meeting of the City Council.

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Alberto Alvarez, Jr., Mayor

ATTEST:

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Kenny Ross, City Secretary