

Utility Disconnect

ORDINANCE NO 2021-004

AN ORDINANCE ESTABLISHING REQUIREMENTS FOR DISCONNECTION OF UTILITY SERVICES, SPECIFICALLY WATER AND SEWER IN THE CITY OF DEPORT, TEXAS; ESTABLISHING “NOTICE DISCONNECTIONS” AS WELL AS “NO NOTICE DISCONNECTIONS”, INCLUDING REMEDIES FOR INSUFFICIENT FUND CHECKS, DELINQUENT ACCOUNT BALANCES, VIOLATION OF CITY ORDINANCES DEALING WITH WATER OR SEWER, MISREPRESENTATION TO THE CITY ON APPLICATION FOR UTILITY SERVICES, VIOLATION OF CROSS CONNECTION REGULATIONS, AND OTHER CONDITIONS FOR DISCONNECTION OF SERVICES; AND ESTABLISHING AN EFFECTIVE DATE, A SEVERABILITY CLAUSE, AND REVOKING OTHER INCONSISTENT ORDINANCE PROVISIONS.

WHEREAS, the City of Deport, Texas provides utility services in the form of water and sanitary sewer to citizens upon application and payment of fees;

WHEREAS, the provision of utility services is a public health and safety issue;

WHEREAS, the City Council for the City of Deport, Texas is obligated to promote health, safety and general well fare of the Citizens residing in the City, and as well to provide for the best interest of the City;

WHEREAS, the City Council, via this Ordinance seeks to ensure that water utility services, sewer services are adequate and efficient for the Citizens of the City;

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council is authorized to adopt any Ordinance that is for the good Government, peace or Order of the City, and is necessary or proper for carrying out the power grounded by law to the City;

WHEREAS, pursuant to Texas Local Government Code Section 51.012, the City Council is authorized to adopt an Ordinance, not inconsistent with the State Law, that the Council considers proper for the Governmental interest, welfare, or good order of the City;

WHEREAS, pursuant to Chapter 552 of the Texas Local Government Code and other laws, the City is authorized to operate and regulate water and sewer utility systems in a manner that protects the interest of the Municipality; and

WHEREAS, the City of Deport currently has no Municipal Court or Law Enforcement (Code Enforcement) within the City.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEPORT, TEXAS AS FOLLOWS:

SECTION 1: LEGISLATIVE INTENT.

All of the above premises are hereby found to be true and correct and represent the Legislative and factual findings of the City of Deport and are hereby approved incorporated into the body of this Ordinance.

SECTION 2: DEFINITIONS

Customer: Any individual or entity that is receiving utility services from the City consistent with an application and any deposit that might be required.

Cross Connection: Any physical connection or arrangement between potable water and any source of possible contamination including but not limited to connections which contain risks of contaminating the Municipal Water Supply with bacteria, or which may prevent wastewater to backflow/enter the water supply.

Disconnect: Any termination or shut off of utility services whereby potable water supply is stopped and/or sewer services are unavailable, and includes any City products, services, and/or equipment related to water and sewer services.

SECTION 3: DISCONNECTION OF UTILITY SERVICES

- a. Disconnection at the Customer's request: Upon receipt of a written notice from a customer to terminate service at the customer's service location(s), the City shall terminate the service on or before the 3rd day that the customer has requested termination. No additional notice of termination or discontinuation of service is required. The City shall refund the customer's deposit, only if the customer has discontinued services with all outstanding utility service bills paid. The City may deduct from the customer's deposit any outstanding utility bills and/or any damage to the City's property including meters.
- b. Disconnection with Notice: Utility Service(s) may be disconnected for reasons provided hereinafter on the 10th day following written notice to the customer of the proposed

disconnection. The time calculation for the 10 days notice begins on the day the disconnect notice is deposited in the US mail, addressed to the customer, with sufficient postage.

The City may disconnect utility service(s) after notice has been given, for the following reasons:

1. Returned or insufficient checks: In the event a check, draft, or other similar instrument is given by a person to the City for payment of utility services, and the instrument is returned by the bank or other institution as insufficient or non-negotiable for any reason, the City shall mail a notice to the customer requiring redemption of the returned instrument within 10 days of the date of the notice, including any required insufficient check fee charged by the City. Redemption of the insufficient fund check must be made by cash, money order, or certified check.

If a customer for utility service(s) fails to redeem an insufficient fund check, the City may initiate termination of utility service(s) by forwarding a notice to the customer which includes the failure to redeem the insufficient fund check and noticing termination within ten (10) days of the date of receipt of the notice consistent with the terms of this Ordinance.

2. Failure to pay a delinquent account for utility services, or failure to comply with the terms of any agreement regarding water or sewer services with the City: An account for utility services becomes delinquent for purposes of termination on the 11th day of the month following the posting of account billing into the customer's account. Utility services for a delinquent account may be terminated ten (10) days after becoming delinquent.
3. Violation of City's Ordinances, including any International Codes adopted, which pertain to the use of water or utility services: The City may disconnect utility services under this Section if a customer, or others who occupy the property by lease or agreement violate City Ordinances and/or State Regulations pertaining to the use of water or utility services.
4. Failure of the customer to comply with the terms of a City Service Agreement: The City may disconnect utility service(s) if, the customer fails to comply with provisions of the City Service Agreement which includes the application for water and/or sewer services. Under this provision, the notice provided by the City must include a reference

to the provision of the special contract or agreement which is the basis for the disconnect notice.

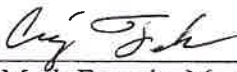
5. Failure of the customer to allow access to the City meter for inspection: The City may disconnect with notice, if a customer fails to permit City access to inspect or maintain the City meter. Access includes regularly scheduled maintenance, meter reading, if required, or when there is reason to believe that a hazardous condition or a violation exists on the property for which access is necessary to verify.
 6. Customer misrepresentation: The City may disconnect utility service(s) if the customer has misrepresented or falsified any fact, authority, or use of the utility service(s) in any document or presentation to the City.
 7. Regulatory Requirements: The City may disconnect utility service(s) based on the failure of the customer to meet requirements of the regulatory authority where construction and maintenance of on-site sewage facilities (if City sewer is unavailable) as authorized by the Texas Health and Safety Code Chapter 366.
 8. Customer failure to re-apply for utility service(s): The City may disconnect utility service(s) based on the failure of the customer to reapply for utility service(s) following notification by the City that the customer no longer meets the terms of service classification, or that there has been a change in circumstances, or that the equipment (connections) being utilized by the customer are unapproved.
- c. Disconnection without notice: Utility service(s) maybe disconnected without notice for any of the following reasons:
1. A known or discovered dangerous or hazardous condition currently existing for which service may be disconnected and remain disconnected for as long as the hazard or danger exists, including but not limited to a violation of the Texas Health and Safety Code Chapter 341 or the Public Drinking Water Rules and Regulations of the Texas Commission on Environmental Quality, or if there is reason to believe that a dangerous or hazardous condition exist and the customer refuses to allow access for purposes of confirming the existence of such conditions and/or removing the dangerous or hazardous condition.

2. Failure to comply with any City regulations regarding cross connection prevention, back flow prevention, sewer, or water use regulations, and/or grease trap regulations.
 3. Connection to water or utility service(s) without authority from the City or by a person who has not made application for service or has reconnected the service without authority following termination of service by the City.
 4. If the City's meter equipment or other utility system equipment has been tampered with including bypassing, lock cutting, or other diversion of service.
 5. In instances where the service connection has been abandoned and is no longer in use.
 6. Disconnection without notice is authorized when the customer, directly or indirectly connects or provides utility service(s) to auxiliary building such as shops or barns without obtaining a permit; allows or permits sharing of utility service(s) to adjoining or adjacent properties not listed on the application; or allows or permits utility service(s) to be connected or utilized by a camper trailer, or recreational vehicle.
 7. Disconnection without notice is authorized under any circumstances which constitute a theft of service consistent with section 31.04 of the Texas Penal Code.
- d. Written Statement regarding Disconnection: Where reasonable, depending on the nature of a *disconnection without notice*, the City may provide a written statement which details the issues or circumstances surrounding a disconnection that may place or post that explanation at the place of common entry or at the front door of each affected residential unit as soon as possible after the service has been disconnected.
- e. Disconnection prohibited: Utility services may not be disconnected for the following reasons:
1. Failure of the customer to pay for merchandise or charges for non-utility service provided by the City unless an agreement exists between the applicant and the City or by the customer guarantees payment of a non-utility service as a condition of the provision of that service.
 2. Failure of the customer to pay charges arising from an underbilling occurring due to any misapplication of rates more than 4 months prior to the current billing.

3. Failure of the customer to pay the account of another customer as a Guarantor thereof unless the City has in writing the guarantee as a condition precedent to service.
 4. Failure of the customer to pay charges arising from an underbilling due to any faulty metering unless the meter has been tampered with or unless such underbilling charges are due to meter error.
 5. Failure of the customer to pay an estimated bill other than a bill rendered pursuant to an approved meter reading plan or unless the City is unable to read the meter due to circumstances beyond its control and estimates the current bill.
 6. In response to a request for disconnection by an owner of real property (rental property) where the renter/occupant is the customer for utility service(s) consistent with an application for said services, and the renters' account is not scheduled for disconnection under the schedules of disconnection utilized by the City.
 7. Disconnection on Holidays and Weekends is generally not permitted unless a dangerous condition exists or the customer requests disconnection. Utility service(s) may not otherwise be disconnected on a day preceding a day when personnel of the City are not available to the public for the purposes of making collections and/or reconnecting the service.
 8. The City may not discontinue utility service(s) to a delinquent residential customer permanently residing in an individually meter dwelling unit when that customer establishes that discontinuance of service will result a person at that residence becoming seriously ill or more seriously ill if utility service(s) is disconnected. On each occasion a customer seeking to avoid termination of service(s) under this subsection, must present from the attending physician, certification of the necessity of utility service(s) for an individual residing at the residence 10 days prior to the issuance of the bill by the City. Any prohibition against service termination under this subsection lasts for 60 days from the day of issuance of the utility bill or a lesser period as maybe agreed upon by the City and the customer.
- f. Severability: If for any reason a Section or portion of this Ordinance is found to be void or unenforceable, that does not impact on the balance of the Ordinance.

- g. Effective Date: This Ordinance becomes effective on the date of passage by the City Council and signature below.
- h. Revocation of inconsistent Ordinances: Any existing Ordinance provision that is inconsistent with the provisions of this Ordinance are Revoked.

PASSED by voice vote the 21st day of January, 2021




John Mark Francis, Mayor -
Craig Folse, Mayor Pro-Tem

APPROVED AS TO FORM:



Sunny Whitney, City Secretary



David Hamilton, City Attorney