

**ORDINANCE NO. 2013 - 30**

**AN ORDINANCE AMENDING CHAPTER 13, "UTILITIES" OF THE COLORADO CITY CODE OF ORDINANCES, INCLUDING ADDING SECTION 13.01.002 TO ESTABLISH AN APPLICATION PROCESS AND TO REQUIRE DEPOSITS AND THE PAYMENT OF ANY APPLICABLE FEES TO OPEN AN ACCOUNT FOR UTILITY SERVICES; ADDING SECTION 13.01.003 TO ESTABLISH THE AUTHORITY TO FILE LIENS FOR DELINQUENT UTILITY BILLS AND TO ALLOW PROPERTY OWNERS TO FILE A DECLARATION OF RENTAL PROPERTY; ADDING SECTION 13.01.004 TO CHARGE A FEE FOR RETURNED CHECKS; AMENDING SECTION 13.03.011 REGARDING BILLING POLICIES AND DISCONTINUANCE OF WATER SERVICE; AMENDING SECTION 13.04.065 REGARDING BILLING POLICIES AND DISCONTINUANCE OF SERVICE FOR SEWER SERVICE; AMENDING SECTION 13.05.071 REGARDING BILLING POLICIES AND DISCONTINUANCE OF SERVICE FOR GARBAGE COLLECTION SERVICES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the current ordinances, processes, and policies governing administration of the City's water, sewer, and garbage collection services are ineffective to regulate and manage the City's utility services; and

**WHEREAS**, the City Council desires to amend the City current ordinances, processes, and policies governing administration of the City's utility services as provided herein.

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

**Section One.** Amendments. Chapter 13, entitled "Utilities" is hereby amended by adding Section 13.01.002, to establish an application process and requiring customers to pay utility deposits and any applicable fees to open a utility account with the City; by adding Section 13.01.003 to establish the authority to file utility liens for delinquent utility charges and allowing property owners to file a declaration of rental property; by amending Section 13.03.011, to establish new billing policies, including discontinuance of service, for water services; by amending Section 13.04.065, to establish new billing policies, including discontinuance of service, for sewer service; by amending Section 13.05.072, to establish new billing policies, including discontinuance of service, for garbage collection services, as follows:

**"Sec. 13.01.002 Application; deposits and fees required**

(a) Application for water, sewer and garbage collection services required.

(1) Contents of application. Before any water, sewer or garbage collection services shall be supplied to any person or to any premises by the City, that person who is to be responsible for payment of those services, or that person's duly authorized agent, shall make written application for those services on a form to be provided by the water office located in City Hall. The

application shall contain such information regarding the applicant and the service(s) to be provided as established by the City. When completed and approved, the application shall constitute a contract on the part of the applicant to pay the City for those services provided by the City to that person or premises, and to abide by all regulations relating to those services as those regulations exist and may be amended. In making application for water, sewer, or garbage collection services, each applicant shall provide such information and documentation as may be required by the City, including, but not limited to, documentation which establishes the identity of the applicant, whether the applicant is a landlord or tenant, establishes the authority of the applicant to make the application on behalf of the applicant or a third party, and identifying the tenants of the premises if the property is a rental property.

(2) If the applicant for water services is a property owner, the applicant shall provide a copy of the deed to the property.

(3) If the applicant for water services is a landlord or a tenant, the applicant shall provide a copy of the written rental or lease agreement between the landlord and tenant, if one exists. If one does not exist, the City will provide the applicant or tenant with a form for the landlord to complete and sign before the City Utility Clerk or a Notary.

(4) The applicant or tenant shall provide a list of names of all tenants of the premises.

(b) Deposits with application.

(1) A deposit shall be made with the water office at the time of making an application for water, sewer and garbage collection services, the minimum amount of which shall be as follows:

a. Residential. The deposit on any property that is single-family residential and is not a rental property, and the customer has two or less prior utility account disconnects for non-payment, shall be \$75.00. The deposit for residential property shall be raised to \$150.00 for water, sewer and garbage collection if the customer has more than two, but not greater than five, utility account disconnects for non-payment. The deposit for residential property shall be raised to \$250.00 for water, sewer and garbage collection if the customer has more than five utility account disconnects for non-payment.

b. Rental Residential. The deposit on any single-family residential property that is a rental property shall be \$150.00 if the customer has two or less prior utility account disconnects for non-payment. The deposit for residential property shall be raised to \$250.00 for water, sewer and garbage collection if the customer has more than two, but not greater than five, utility account disconnects for non-payment. The deposit for residential property shall be raised to \$350.00 for water, sewer and garbage collection if the customer has more than five utility account disconnects for non-payment.

c. Multi-Unit Residential. The deposit for water, sewer and garbage collection on a multi-unit residential property (duplex, apartment complex, boarding house, recreational vehicle park, etc.) shall be in an amount equal to one month's estimated average bill for water, sewer and garbage collection per meter if the customer has two or less prior utility account disconnects for non-payment. The deposit for multi-unit residential property shall be raised to an amount equal to two months' estimated average bill for water, sewer and garbage collection if the customer has

more than two, but not greater than five, utility account disconnects for non-payment. The deposit for multi-unit residential property shall be raised to three months' estimated average bill for water, sewer and garbage collection if the customer has more than five utility account disconnects for non-payment. If a customer is a renter that has established a utility account for his individual apartment or unit in a duplex or other multi-unit residential property, the deposit amount for rental residential shall be based upon the deposit amounts established under Rental Residential for a single-family residential property.

d. Commercial. The deposit on any property that is business or commercial (and is not a rental property) shall be an amount equal to \$150.00 for water, sewer and garbage collection for a customer that has two or less prior utility account disconnects for non-payment. The deposit for business or commercial property shall be raised to \$300.00 for water, sewer and garbage collection if the customer has no more than two, but not greater than five, utility account disconnects for non-payment. The deposit for business or commercial property shall be raised to \$450.00 for water, sewer and garbage collection if the customer has more than five utility account disconnects for non-payment.

e. Rental Commercial. The deposit on any property that is business or commercial that is a rental property shall be an amount equal to one month's estimated average bill for water, sewer and garbage collection if the customer has two or less prior utility account disconnects for non-payment. The deposit for business or commercial property shall be raised to an amount equal to two months' estimated average bill for water, sewer and garbage collection if the customer has more than two, but not greater than five, utility account disconnects for non-payment. The deposit for business or commercial property shall be raised to three months' estimated average bill for water, sewer and garbage collection if the customer has more than five utility account disconnects for non-payment.

f. Industrial/Manufacturing. The deposit on any property that is used for industrial or manufacturing purposes shall be an amount equal to one month's estimated average bill for water, sewer and garbage collection if the customer has two or less prior utility account disconnects for non-payment. The deposit for industrial or manufacturing property shall be raised to an amount equal to two months' estimated average bill for water, sewer and garbage collection if the customer has more than two, but not greater than five, utility account disconnects for non-payment. The deposit for industrial or manufacturing property shall be raised to three months' estimated average bill for water, sewer and garbage collection if the customer has more than five utility account disconnects for non-payment.

(2) Deposits shall be required for all water, sewer and garbage collection accounts opened after the effective date of this section, including any and all customers requesting reconnection of water, sewer and garbage collection services following discontinuance of service.

(3) Deposits shall be applied to unpaid charges when a utility account is disconnected or closed for any reason. When the deposit is insufficient to satisfy any unpaid charges, the City will bill the customer for any deficiency. Deposits will only be refunded after payment of all indebtedness to the City by the customer.

(c) Payment of all required fees. In addition to the payment of a deposit, a customer must pay any applicable fees established by this Chapter to open a water, sewer and garbage collection account.

(d) The City Council authorizes and directs the City's accounting department to make all necessary provisions for accepting deposits on utility accounts in accordance with this Chapter.

**Sec. 13.01.003 Liens for delinquent utility bills; declaration of rental property**

(a) Utility liens.

(1) The City may impose a lien against property that is not protected by the Texas Constitution as a homestead, for delinquent, unpaid bills for water, sewer and/or garbage collection service to the property. Liens for delinquent, unpaid utility services shall be perfected by recording in the real property records of Mitchell County a lien containing a legal description of the property, the account number for the delinquent charges and the amount of the delinquent charges. The City shall then have a privileged lien on as many lots or pieces of property as the terminated services previously served and are described on the lien instrument by metes and bounds, or by city lot and block description, or by any other adequate description. Liens shall include penalties, interest and filing fees. The lien shall bear ten percent per annum interest. A lien for delinquent utility bills is superior to all other liens, except a previously recorded bona fide mortgage lien. A lien shall not apply to any unpaid, delinquent utility bills in a tenant's name after notice by the property owner to the City that the property is rental property. It is further provided that for any charges for which the lien authorized by this section is designed to secure, suit may be instituted and recovery in the foreclosure of that lien may be had in the name of the City.

(2) After the filing of a lien pursuant to this section, the City Secretary shall within thirty (30) days of the filing of that lien give the owner of the property and the account holder notice that such a lien or liens have been filed on the property and inform the owner and account holder of their rights of appeal. Within 30 days of the postmark of the notice sent to the property owner or account holder, the property owner or account holder may appeal the decision to impose the lien on that property to the City Manager or the City Manager's designee, by filing a written appeal. The City Manager or his designee shall authorize the release of the lien if the property owner or account holder shows that no bill for the above-mentioned services to his property encumbered by the lien or liens is unpaid and delinquent, or if the property owner shows that the encumbered property is and at all times from the hour of the filing of the lien or liens until the time of the appeal has been a homestead as defined by the Texas Constitution. The City Manager or his designee may modify or release the lien to reflect the true amount of the delinquency in payment for services to the property if the owner or account holder demonstrates that a lesser bill is owing than the lien alleged. The person last listed on the Mitchell County tax records as being the owner of any parcel of property shall be presumed to be the owner for purposes of this section, and the address listed for the owner on the Mitchell County tax records shall be presumed to be the address of the owner.

(3) Release of lien. Whenever a person or entity pays all principal, interest, penalties and the filing fee of a lien validly filed pursuant to this section, the City Secretary shall execute a

release of that lien and surrender it to the paying party. The City shall not be responsible for filing that release.

(b) Declaration of rental property.

(1) The owner of any property, which property is rented to another and such tenant establishes water, sewer, or garbage collection services in the tenant's name, may prevent the City from using that property as security for the water, sewer and garbage collection services.

(2) When such a declaration has been filed with the City prior to the time the account holder begins to receive utility services, the City shall collect the deposit applicable for the account as provided in Section 13.01.002(b). If a property owner wishes to declare in regard to the bill of a person or entity already receiving services at a particular property, that declaration shall not be effective until the posting of a deposit in the appropriate amount as provided in Section 13.01.002(b).

(3) The declaration of rental property shall be valid for only so long as the person making such declaration owns such property, rents property to another, and the tenant of such property carries water, sewer, or garbage collection services in the tenant's name. The owner may revoke the declaration of rental property at any time by so notifying the City in writing.

**Sec. 13.01.004 Returned Checks**

A \$35.00 fee shall be charged for processing each check or bank draft given in payment for utility services which is dishonored by the customer's bank for any reason. On or after the disconnection date shown on the customer's invoice, utility service is subject to immediate disconnection when the City's bank notifies the City that the customer's check or bank draft has been dishonored. The City will not accept payments made by check or bank draft for charges owed on any utility accounts of a customer who has had three (3) or more checks dishonored, and the customer must make payment by cash, cashier's check or money order.

**Sec. 13.03.008 Connect fee, reconnection fee and transfer fee**

(a) Connect Fee. The City shall require all new residential customers to pay, in advance, a nonrefundable connect fee in the amount of one hundred dollars (\$100.00). For commercial customers the connect fee shall be one hundred fifty dollars (\$150.00).

(b) Reconnect Fee. A reconnection fee of seventy-five dollars (\$75.00) shall be charged by the city for an interruption of service due to nonpayment of bill.

(c) Transfer fee. A transfer fee of thirty-five dollars (\$35.00) shall be charged by the City when service is transferred from one location to another by the customer.

### **Sec. 13.03.011 Billing policies**

(a) Due Date; reconnection charge; other utility services. The City shall require that all payments due to the City for water service be paid in full on or before the due date. The due date shall be the 10<sup>th</sup> day of each month. All amounts due not paid on or before the 15<sup>th</sup> day of the month shall be considered delinquent and a late fee of \$10.00 shall be added to the amount due. The late fee is due immediately and shall be paid with the past due amount. The City shall not accept partial payments for water services. Any bill not paid in full on or before the 25<sup>th</sup> day of the month (the “disconnection date”) in which it became due shall result in the discontinuance of water services. Discontinued service will be resumed upon payment of all past due amounts, including late fees, and payment of the reconnection fee provided in Section 13.03.008(b).

(1) Persons requesting new utility service at an address where service has been discontinued for non-payment must present evidence of a lease, rental agreement or other real property transaction, for purposes of verifying that service is not being restored to the customer whose non-payment caused discontinuance of service. Persons who reside with a customer whose service has been discontinued for non-payment are not eligible for new service at that residence until all conditions for reconnection are met.

(2) If a customer receives utility service at more than one (1) location in the City, has more than one (1) account for utility service with the City and is delinquent on any one (1) account with the City on the disconnection date, the City may discontinue the utility service at the other location until the delinquent utility bill is fully paid, even if the utility account at the other location is current.

### **Sec. 13.04.065 Billing policies**

Due Date; reconnection charge. The City shall require that all payments due to the City for sewer service be paid in full on or before the due date. The due date shall be the 10<sup>th</sup> day of each month. All amounts due not paid on or before the 15<sup>th</sup> day of the month shall be considered delinquent and a late fee of \$10.00 shall be added to the amount due. The late fee is due immediately and shall be paid with the past due amount. The City shall not accept partial payments for sewer service unless approved by the City Manager or his designee. Any bill not paid in full on or before the 25<sup>th</sup> day of the month (the “disconnection date”) in which it became due shall result in the discontinuance of sewer services. Discontinued service will be resumed upon payment of all past due amounts, including late fees, and payment of the reconnection fee provided in Section 13.03.008(b). All other policies applicable to the billing, collection and reconnection of water services shall apply to sewer services, including 13.03.011(a) (1) and (2).

### **Sec. 13.05.072 Billing policies**

(a) For the purpose of convenience, the billing and collection of the charges levied for the services rendered by the department of sanitation in the collection and disposal of garbage, weeds, rubbish, brush, refuse and other waste matter under the provisions of this article shall be done by the water department of the City.

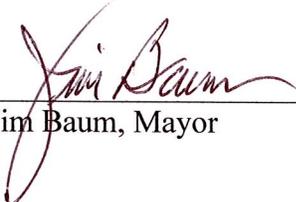
(b) Due Date; reconnection charge. The City shall require that all payments due to the City for garbage collection/sanitation services be paid in full on or before the due date. The due date shall be the 10<sup>th</sup> day of each month. All amounts due not paid on or before the 15<sup>th</sup> day of the month shall be considered delinquent and a late fee of \$10.00 shall be added to the amount due. The late fee is due immediately and shall be paid with the past due amount. The City shall not accept partial payments for garbage collection/sanitation services unless approved by the City Manager or his designee. Any bill not paid in full on or before the 25<sup>th</sup> day of the month (the “disconnection date”) in which it became due shall result in the discontinuance of garbage collection/sanitation services. Discontinued services will be resumed upon payment of all past due amounts, including late fees, and payment of the reconnection fee provided in Section 13.03.008(b). All other policies applicable to the billing, collection and reconnection of water services shall apply to sewer services, including 13.03.011(a) (1) and (2).”

**Section Three. Repealer.** All ordinances and resolutions, or parts of ordinances and resolutions, in conflict with this Ordinance, are hereby repealed, and are no longer of any force and effect.

**Section Four. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of this ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining section, paragraphs, sentences, clauses, phrases and words or this ordinance since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid portion of the ordinance.

**Section Five. Effective Date.** This Ordinance shall take effect immediately upon its adoption and enactment by the City Council and publication of the caption and penalty, as may be required by law.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Colorado City, Texas, on this the 12th day of November, 2013.

  
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Jim Baum, Mayor

**ATTEST:**

  
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Donna Madrid, City Secretary