

ORDINANCES OF THE CITY OF SEVERY, KANSAS

Ordinance No 435

AN ORDINANCE DECLARING AND ESTABLISHING POLICIES AND PROCEDURES WITH REGARD TO WATER, SEWER, AND REFUSE UTILITY SERVICES; ESTABLISHING NOTICE REQUIREMENTS AND SUBSEQUENT PROCEDURES; PROVIDING FOR DISCONTINUANCE OF UTILITY SERVICES; AND PROVIDING FOR RECONNECTION AND RESUMPTION OF SERVICE.

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

Section One DEFINITIONS

As used in this Ordinance, the following shall apply:

- a. "Customer" or "owner" is the owner of record of real property which is subject to this Ordinance, singular or plural. These two definitions do not apply to any individual or person who resides at or uses the premises by authority of the owner, whether by a contractual agreement between the owner and a renter or by mere permission or authorization of the owner. Such agreements, permissions, or authorizations do not bind the City or create a deviation from the policies and procedures adopted in this Ordinance.
- b. "Individual" refers only to natural persons or a natural person's duly appointed legal guardian or conservator. "Person" includes natural persons, corporations, companies, partnerships, associations, and all other types and kinds of organizations and entities, without limitation.
- c. "Law Enforcement Officer" includes individuals so designated by a police department, a sheriff's department, or a state or federal law enforcement agency or department.
- d. "Premises" means real property situated within the City limits that contains structures used or intended for human occupancy, business use, recreation, or other human use.
- d. "Quorum," for purposes of this Ordinance shall include at least three Council members. The Mayor is not included in the quorum but may cast a deciding vote in case of a tie vote among Council members.
- e. "Utility, utilities, or utility services" means any or all of the following services provided by the City: water service, sanitary sewer service, and refuse collection service.

Section Two
DISCONTINUATION OF UTILITY SERVICES

- a. The City will discontinue a particular utility service to any customer, without notice or hearing, for either of the following reasons:

(1) When a customer has so requested in writing. Any unpaid bills, fees, or charges payable at the time of discontinuation shall remain due, owing, and subject to collection by the City through any legally available means. Customers shall remain responsible to furnish the City with a correct billing address for collection of such amounts.

(2) When it is determined by the City's Public Officer, the Fire Department Chief, or a law enforcement officer that continuance of a particular utility service constitutes a dangerous condition which presents an immediate threat to health or safety of persons or property on or near a customer's premises.

- b. The City may discontinue or refuse to provide a particular utility service to any customer, following compliance with the requirements of Section Four of this Ordinance, for any of the following violations:

(1) Failure to complete the City's form application for commencing water/sanitary sewer/ refuse collection services showing record ownership of the affected real property, or failure to timely pay utility bills, fees, or charges as provided in Section Four of this Ordinance.

(2) Misrepresentation of a customer's identity; and/or a customer's intentional provision of other false information provided to obtain or continue to receive utility services from the City.

(3) Refusal of a customer, or an actual or implied agent of that customer, to allow access to the customer's property for the purpose of inspection, meter reading, maintenance, replacement, or removal of any utility service, so long as such access is by an individual designated by the City to perform one or more of those activities.

(4) Violation by a customer, or an actual or implied agent of the customer, of any rule, regulation, or ordinance of the City pertaining to utility services, when such violation adversely affects the City's utility service premises or delivery systems.

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(5) Any attempt by a customer, or by any occupant, or by any agent of a customer, to alter, interfere with, divert, tamper with, or damage, the City's utility services, devices, or service systems without specific authorization from designated City employees or officials.

c. With substantial evidence of any violation listed in Section Two, Subsection b. (1)-(5) above, the City may refuse or discontinue utility services following written notice to the customer, sent by regular mail to the address provided by the customer in the application to obtain service and to any other address where the services are ordinarily billed, describing the applicable violation(s), and setting a date for discontinuation of the affected services.

(1) The customer shall have the right to a timely hearing before the City Council as to the notice provided in this Section Two, Subsection c. Notice of such hearing shall be provided only if a written objection to discontinuation is received by the City Clerk within ten calendar days of the receipt-of-notice date verified in the customer's written objection. Objections must verify the date the notice was received by the customer and specify good cause for the objection.

(2) If no timely written objection is received by the City Clerk, discontinuation may proceed forthwith, at the discretion of the designated officer of the City.

(3) Hearings on customer objections will ordinarily be held on a date scheduled for a regular meeting of the Council. The City Clerk shall notify each objecting customer of the date the customer's hearing will be conducted. A different hearing date may be granted at the discretion of the Council, for good cause shown by the customer or the Council.

(4) The objecting customer must appear personally, or through a duly appointed legal guardian or conservator, and the customer may also be represented by another individual, at the customer's option. The Kansas rules of evidence will not apply to the hearing, and the customer's representative need not be a licensed attorney. If the customer intends to appear with a representative, the representative's name must be provided to the Council at least 24 hours before the hearing in order to be heard at the hearing on behalf of the customer.

(5) Upon a hearing held in compliance with this Section Two, Subsection c., should there be a finding in favor of the customer's objection, as described in Section One(d) above, the utility service applicable to the customer's objection shall continue under the provisions of this Ordinance 435 and Ordinance 436, at no additional cost to the customer beyond bills, fees, or charges that were in place on the date of the notice of discontinuation, to the extent such items were not waived or discharged in the findings of the Council. If there is not finding in favor of the customer, the City may proceed as described in this Ordinance.

**Section Three
UTILITY BILLING DATES AND PROCEDURES; DELINQUENCY DATES**

Utility billings ordinarily will be sent by regular mail, postage prepaid, by the 30th day of each month for the previous month's service. All billings for utility services shall be due and payable by mail to the City of Severy, P.O. Box 128, Severy, KS 67137; by electronic delivery as stated in the billing; or by hand delivery to City Hall. All utility billings are due in full by the 15th day of the month after the billing date.

**Section Four
RESULTS OF DELINQUENT PAYMENT OF UTILITY BILLS**

Failure to make full payment on or before the due date is subject to notice of delinquency served by regular mail, postage prepaid, to the owner at the address provided for the owner when service commenced or as was subsequently designated by the owner. If the owner has requested that regular invoices for City utilities be sent to the attention of an occupant at the premises, or to any other address provided by the owner, then the notice of delinquency shall also be sent by regular mail, postage prepaid, to at least one record owner of the premises, at the last known address of the owner.

a. At the discretion of the City Clerk, written notice of pending disconnection or elimination of a utility service may also be provided by personal delivery on the occupant by a law enforcement officer or the City's Public Officer or by posting on the premises if they appear to be vacant.

b. All written notices, whether mailed, personally delivered, or posted, shall include the following information:

- (1) Name of the customer and address of the premises.
- (2) Number of the utility service account.
- (3) Amount past due, plus any additional delinquency charges.
- (4) Notice that the utility service shall be terminated on a given date, absent payment of the amount past due and any listed delinquency charges.
- (5) A copy of Section Two, Subsection c. of this Ordinance.

Section Five

If a hearing is conducted, notice of a grant or denial of the customer's objection shall be given to the customer and any representative, in person or by regular mail. Any extensions of a discontinuation date shall be for good cause shown in writing by the customer and at the sole discretion of the Council. The customer remains responsible for furnishing the City with a correct address for billing of current and past due amounts.

Section Six

LIENS UPON REAL PROPERTY

Owners of premises provided utility services by the City are liable for payment of the amounts billed for those services. Such billed amounts, including service charges, fees, and costs of the City to attempt collection of past due amounts, shall constitute a lien upon the real property. The lien shall be served on the Clerk of Greenwood County, Kansas, to be placed on the tax rolls for the real property, and they shall be subject to the same penalties and collected in like manner as other taxes collectible by law.

Section Seven

CHARGES AND RECONNECTION FEES

- a. Late Payment Charges. All bills remaining delinquent for 21 days after the initial date of billing shall be subject to a ten percent (10%) late charge, which shall be assessed by the City upon the total delinquent amount of unpaid charges.
- b. Reconnection Fees. If a customer wishes to resume services after disconnection and removal for failure to pay, the customer shall pay to the City the entire balance due and owing to the City for services prior to disconnection, plus all late payment charges up to the date of reconnection. The customer shall also pay a seventy-five-dollar (\$75.00) reconnection fee.

This Ordinance shall be in full force and effect from and after its adoption, summary publication in the official city newspaper, and website publication. Any prior ordinances or parts of prior ordinances are repealed in whole or in part, to the extent they may conflict with this ordinance.

Adopted by the City Council and approved by the Mayor on the 3rd day of October 2022.

Attest Tessa C. Riggs
Tessa C. Riggs, City Clerk

Donna Wiss
Donna Wiss, Mayor