

**ORDINANCE NO. 1119-1**

**AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, AMENDING CHAPTER 50 "UTILITY SERVICE" TO CHANGE THE BILLING AND PAYMENT DATES, TO CHANGE THE DISCONTINUATION OF SERVICE PROCEDURES, TO REQUIRE OWNERS OF PROPERTY TO GIVE NOTICE OF VACANCY, AND TO PROVIDE FOR A BILLING DISPUTE AND APPEAL PROCEDURE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lindsay, Texas, is a Type A general law municipality located in Cooke County, created in accordance with Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the City Council of the City of Lindsay previously adopted regulations codified in Chapter 50 of the Lindsay, Texas Code of Ordinances regulating utility service; and

**WHEREAS**, the City Council now desires to amend those regulations in the best interest of the public health, safety and welfare of the citizens and the public.

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

**SECTION 1.**

Section 50.17 "Billing Regulations" of Chapter 50 "Utility Service" of the Lindsay, Texas Code of Ordinances is hereby amended to read as follows:

**"§50.17 BILLING REGULATIONS.**

All monthly water, sewer and garbage charges shall be billed and considered in all things as one charge; the payment shall not be divided at any time for any reason and the payment shall apply to the bill as a whole. The monthly charges shall become due and payable on the tenth (10<sup>th</sup>) of each month following the month in which service was rendered, and shall be payable in full by the tenth (10<sup>th</sup>) of the following month. If the tenth (10<sup>th</sup>) of the month falls on a Saturday or Sunday, any payment received by the municipality prior to 9:00 a.m. on the following Monday morning will be considered a timely payment. If the tenth (10<sup>th</sup>) of the month falls on a holiday observed by the municipality, any payment received by the municipality prior to 9:00 a.m. on the following work day will be considered a timely payment."

## SECTION 2.

Section 50.18 “Discontinuation of Service; Notice” of Chapter 50 “Utility Service” of the Lindsay, Texas Code of Ordinances is hereby amended to read as follows:

### “§50.18 DISCONTINUATION OF SERVICE; NOTICE.

(A) Water, sewer or garbage collection services to any customer are subject to discontinuation after the last day of the month following the month in which service was rendered.

(B) The following policies will be followed by the municipality regarding discontinuation of service.

(1) When it becomes necessary for the municipality to discontinue utility service to a customer for nonpayment of bill, service will be reinstated only after all past due amounts for service, including any late fees, services charges, deposits and reconnect fees have been paid; and

(2) It is the policy of the municipality to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The municipality’s form for application for utility service and all bills shall contain, in addition to the title, address and telephone number of the official in charge of billing, clearly visible and easily readable state:

(a) All bills are due and payable on or before the date set forth on the bill; and

(b) If any bill is not paid by or before the last day of each month following the month in which service was rendered, service will be discontinued for nonpayment. If the past due amount is not paid by the last day of the current month, the water service shall be discontinued.”

## SECTION 3.

Chapter 50 “Utility Service” of the Lindsay, Texas Code of Ordinances is hereby amended by adding a new section 50.035 “Owner of Property to Give Notice of Vacancy” to read as follows:

### “§50.035 OWNER OF PROPERTY TO GIVE NOTICE OF VACANCY.

An account holder and/or owner of property to which utility service is furnished by the city shall give notice of vacancy to the city on the next business day after the property becomes vacant. Any utility services provided shall remain the responsibility of the account holder until such time as a new account is established at the address. Failure to pay for utility services may result in a lien placed on the property.”



## SECTION 4.

Chapter 50 "Utility Service" of the Lindsay, Texas Code of Ordinances is hereby amended by adding a new section 50.185 "Billing Dispute/Appeal" to read as follows:

### **"§50.185 BILLING DISPUTE/APPEAL.**

(A) The City Secretary is responsible for ensuring the integrity of the utility billing system. If a customer would like to appeal a penalty or other collections related fee, the City Secretary is charged with resolving the billing issue in a manner satisfactory to both the city and customer. An appeal of a penalty or other collections related fee shall be handled in accordance with subsection (D). If a customer would like to dispute the correctness of all or a part of the amount shown on a utility bill or notice of termination, the dispute shall be handled in accordance with subsection (E).

(B) The city's and customer's liability for amounts related to billing errors shall be limited to the two months preceding the charge being appealed.

(C) At any time before the date of termination of service for nonpayment of the amount(s) shown on a utility bill or a notice of termination, a customer may dispute the correctness of all or part of the amount(s) shown in accordance with the provisions of this section.

(D) The procedure for customer appeals of penalties or other collection related fees shall be as follows:

(1) If a customer does not dispute the correctness of an amount(s) shown on a utility bill or a notice of termination, but is appealing the assessment of a penalty or other collections related fee, the customer shall notify the City Secretary, orally or in writing, of the amount being appealed.

(2) At the City Secretary's discretion, with approval of the Mayor, a penalty or other collections related fee may be waived for a customer.

(3) The City Secretary within three days after receipt of the customer's notice shall notify the customer if the penalty or other collections related fee will be waived.

(E) The procedure for customer disputes of an amount shown on a utility bill or notice of termination shall be as follows:

(1) Before the date of termination of service, the customer shall notify the City Secretary, orally or in writing, that he/she disputes all or part of the amount(s) shown on a utility bill or a notice of termination, stating as completely as possible the basis for the dispute.

(2) If the City Secretary determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amount(s) shown, the City Secretary shall mail to the customer a notice stating that the present dispute is untimely or

invalid. No further action is required by the City Secretary.

(3) If the City Secretary determines that the present dispute is timely and is not otherwise invalid under this section, the City Secretary, within three days after receipt of the customer's notice, shall arrange an informal meeting with the customer.

(4) Based on the city's records, the customer's allegations and all other relevant materials available to the City Secretary, he/she shall resolve the dispute, attempting to do so in a manner satisfactory to both the city and the customer.

(5) Within three days of completion of the meeting, the City Secretary shall mail to the customer a copy of his decision resolving the dispute. The City Secretary shall have authority to adjust the amounts reflected on a utility bill or notice of termination up to \$25.00. If the City Secretary determines that resolving the dispute will require an adjustment of more than \$25.00, the City Secretary may refer the dispute to the Mayor for consideration.

(6) If the decision is unsatisfactory to the customer, the customer, within three days of receipt of the City Secretary's decision, may request, either orally or in writing, an informal hearing before the Mayor.

(7) If the customer requests an informal hearing with the Mayor or if the City Secretary refers a dispute to the Mayor, the hearing before the Mayor shall be held within three days of the city's receipt of the customer's written request or the City Secretary's decision to refer the dispute to the Mayor. The City Secretary shall maintain minutes of this informal hearing with the Mayor.

(8) At the hearing, the customer shall be entitled to present all evidence that is, in Mayor's view, relevant and material to the dispute.

(9) Based on the record established at the hearing, the Mayor, within three days of the completion of the hearing shall issue his written decision resolving the dispute. The Mayor shall have authority to adjust the amounts reflected on a utility bill or notice of termination up to \$500.00. If the Mayor determines that resolving the dispute will require an adjustment of more than \$500.00, the Mayor may refer the dispute to the City Council.

(10) If the decision is unsatisfactory to the customer, the customer, within three days of receipt of the Mayor's decision, may request, in writing, a formal hearing before the City Council at the next regularly scheduled Council meeting.

(11) If the customer requests a formal hearing before the City Council or if the Mayor refers the dispute to the City Council, the hearing shall be held at the next regularly scheduled City Council meeting. At the hearing, the City staff and the customer shall be entitled to present all evidence that is relevant and material to the dispute and to examine and cross-examine witnesses.



(12) Based on the record established at hearing, the City Council, through the Mayor, shall issue their written decision formally resolving the dispute within five days of the completion of the hearing. The decision of the City Council shall be final and binding on the City and the customer.

(F) Utilization of this dispute/appeal procedure shall not relieve a customer of his obligation to timely and completely pay all other undisputed utility charges and/or installments and surcharges, and the undisputed portion(s) of the amount(s) which is (are) the subject of the present dispute. Notwithstanding subsection (d), failure to timely and completely pay all such undisputed amounts shall subject the customer to termination of service in accordance with the provisions of this division.

(G) Until the date of the City Council, the Mayor, or the City Secretary's decision, whichever is later, the City Secretary shall not terminate the service of this customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount(s). If it is determined that the customer must pay some or all of the disputed amount(s), the director shall promptly mail to or personally serve upon the customer a notice of termination as provided in §50.18."

#### **SECTION 5. CUMULATIVE**

This Ordinance shall be cumulative of all provisions of ordinances of the City of Lindsay, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

#### **SECTION 6. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 7. PENALTY**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500.00.

**SECTION 8.  
SAVINGS**

All rights and remedies of the City of Lindsay are expressly saved as to any and all violations of the ordinances of the City of Lindsay related to operating mobile food units within the City that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 9.  
PUBLICATION**

The City Secretary is authorized and directed to cause publication of the descriptive caption and penalty clauses of this ordinance as provided by law.


**SECTION 10.  
EFFECTIVE DATE**

This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND APPROVED ON THIS 11 DAY OF November, 2019.

  
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Scott Neu, Mayor

ATTEST:

  
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Monica Laux, City Secretary