

**ORDINANCE NO. 4011-A**

**AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES AMENDING CHAPTER 82, UTILITIES, ARTICLE I, IN GENERAL, DIVISION 2, GENERAL BILLING PROCEDURES, SECTIONS AS FOLLOWS: 82-39, NEW ACCOUNT SERVICE FEE AND TRANSFER FEE; DEPOSIT REQUIRED, PROVIDING DEPOSIT AMOUNT SET FORTH IN APPENDIX A; 82-40, UTILITY BILLING AND COLLECTION, PROVIDING FOR ACCEPTANCE OF PARTIAL PAYMENTS; 82-42, PAYMENT LOCATION; DUE DATE, PROVIDING FOR ADDITIONAL PAYMENT SERVICES; 82-43, DELINQUENCIES, CLARIFYING BILLING METHOD, DUE DATES AND SERVICE SUSPENSION; 82-45, ADJUSTMENT OF BILLS IN CASES OF UNDUE HARDSHIP, CLARIFYING DEFINITION OF UNDUE HARDSHIP AND LIMITING NUMBER OF ADJUSTMENTS; SECTION 82-46, CHARGES FOR SHUTTING OFF AND RESUMING SERVICE, REQUIRING PAYMENT OF DELINQUENCY BEFORE RESTORATION OF SERVICE AND ESTABLISHING ADDITIONAL FEE FOR AFTER HOURS, WEEKEND AND HOLIDAY SERVICE; SECTION 82-48, BILLING AND PAYMENT FOR WATER SERVICE, RECOGNIZING THIRD-PARTY BILLING SERVICE; AMENDING DIVISION 3, WATER SERVICE CHARGES, SECTIONS 82-70, NEW ACCOUNT SERVICE FEE AND TRANSFER FEE; DEPOSIT REQUIRED, PROVIDING DEPOSIT AMOUNT SET FORTH IN APPENDIX A; ALSO AMENDING ARTICLE III, WATER SERVICE, SECTION 82-199, CLARIFYING PROHIBITION AGAINST METER TAMPERING AND ALLOWING FOR EMERGENCY DISCONNECTION BY CONSUMER IN CERTAIN CIRCUMSTANCES; PROVIDING FOR REPEALER, SEVERABILITY, AND SETTING AN EFFECTIVE DATE.**

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:**

**AMENDED ORDINANCE**

**Section 1:** Section 82-39, New account service fee and transfer fee; deposit required, within Chapter 82, Utilities, Article I, In General, Division 2, General Billing Procedures, is hereby amended as follows:

*Sec. 82-39. - New account service fee and transfer fee; deposit required.*

- (a) *Service fee for new or transferred accounts.* A service fee is established for setting up new utility accounts and/or transferring of any utility accounts from one address to another. These fees shall be according to a schedule of fees in Appendix A of this Code.
- (b) *Cash deposit.* All consumers making application for utility service shall post a cash deposit not to exceed two and one-half times the estimated monthly water, refuse collection, sewer

service and stormwater charges, as set out in the schedule of fees in Appendix A of this code. ~~Should the customer fail to make payment for utility service the deposit shall be applied to the payment of the utility service.~~ If the customer should close the account and fail to make payment for all utility service at the time of closing the account the deposit shall be applied to satisfy the account and if the deposit is insufficient the pay for the service then in that event the customer will be billed for the balance due. In case the deposit shall, for any reason, be reduced to less than the estimate set forth in this subsection or in case experience reveals that the service to the premises exceeds the estimated amount, the city may require an additional deposit, and in case the consumer fails to comply with such requirement, may discontinue the services. The city shall require a minimum deposit as set by the city from all customers outside of the city.

- (c) Service orders for new accounts, transfers and termination service will be scheduled by the revenue department no earlier than the next working day. Service can be scheduled for the morning or afternoon periods; however a person over the age of 18 must be present to have water service turned on. At the time of connection, a general release form must be signed by the customer and the service technician. If the customer is not home at the scheduled time the utility service will not be connected and a fee as set out in Appendix A of this Code will be charged to the customer's utility account for each additional trip made for the connection.

**Section 2:** Section 82-40, Utility billing and collection, within Chapter 82, Utilities, Article I, In General, Division 2, General Billing Procedures, is hereby amended as follows:

*Sec. 82-40. - Utility billing and collection.*

The utility user charges established by this chapter shall be billed to each user monthly, along with the bill for water and other utility services, and will carry the same due date, grace periods and penalties as the water charges. ~~The city may not accept payment of any part of the utility charge unless such payment is accompanied by the entire utility charge payment.~~

**Section 3:** Section 82-42, Payment location; due date, within Chapter 82, Utilities, Article I, In General, Division 2, General Billing Procedures, is hereby amended as follows:

*Sec. 82-42. - Payment location; due date.*

All charges for water service shall be due and payable at the office of the payment center in the Municipal Building or through any other payment service offered by the City, at the time indicated on the bill therefor. All accounts that become delinquent shall be paid in full., ~~and no partial payments will be accepted by the department.~~

**Section 4:** Section 82-43, Delinquencies, within Chapter 82, Utilities, Article I, In General, Division 2, General Billing Procedures, is hereby amended as follows:

*Sec. 82-43. - Delinquencies.*

- (a) All utility accounts due are subject to a penalty of ten percent if not paid on or before the expiration of the past due date shown on the bill. The delinquent charges shall not apply to those residents who qualify as an elderly person with minimum income or permanently disabled person with minimum income for reduced water rates under this article.
- (b) All accounts serviced by the city shall be handled in the following manner:
  - (1) After establishing service, the initial billing may reflect up to 45 days of water usage; subsequent billings, however, shall reoccur monthly and reflect 28 to 30 days of water usage. First 30 days: one month bill;
  - (2) Accounts shall be deemed delinquent and subject to a 10% late fee if not paid within 21 days from the billing date; Next 20 days: a past-due notice;
  - (3) Next three days: a 24-hour cutoff notice;
  - (3) Water service shall be subject to suspension/cutoff on any accounts that remain unpaid 10 days after the due date; additional fees shall be assessed for both suspension and restoration of water service. Next four days: delinquent cutoff;
  - (4) A water meter shall be locked for any accounts that remain unpaid 7 days after the service has been suspended/cutoff and additional fees shall apply. Next five days: delinquent removal.
  - (5) Water accounts that remain unpaid by the next billing cycle shall be terminated for non-payment and the account holder's deposit will be applied to the unpaid balance.
  - (6) All fees referenced in this section shall be established by a Schedule of fees within Appendix A of this code, as may be amended from time to time by the Council.

**Section 5:** Section 82-45, Adjustment of bills in cases of undue hardship, within Chapter 82, Utilities, Article I, In General, Division 2, General Billing Procedures, is hereby amended as follows:

*Sec. 82-45. - Adjustment of bills in cases of undue hardship.*

The city clerk, or his authorized representative, is hereby empowered from time to time to make adjustments in the charges for water services and in the bills rendered to customers of the water department when an investigation by him reveals that the meter charges are excessive due to any inadvertence, misfortune, faulty metering or damage in the fixtures, causing leaks or breakage where, in the judgment of the city clerk or his representative, the full charge would work an undue and unfair hardship on the water consumer. Such adjustments shall be limited to two billing cycles per calendar year. However, excessive usage arising from neglect or inaction shall not be considered an undue or unfair hardship warranting adjustment, such as in the case of a failure to repair a known or obvious water leak.

**Section 6:** Section 82-46, Charges for shutting off and resuming service, within Chapter 82, Utilities, Article I, In General, Division 2, General Billing Procedures, is hereby amended as follows:

*Sec. 82-46. - Charges for shutting off and resuming service.*

- (a) When it is necessary for the water department to shut off the meter of any customer as the result of plumbing trouble, or for any reason where the department deems it necessary to do so in the interest of public health or safety, or at any time upon request of the property owner where such service is performed, the department shall make a charge as set by the city during regular working hours, and after-hours, weekends and holidays; the charge shall be as set by the city for each call to the property for the purpose of either shutting off the meter or reactivating the service.
- (b) When a water customer is delinquent in the payment of a water bill and the water department finds it necessary to cut off the water, ~~or to deliver a notice in lieu of cutoff after the expiration of the cut-off date,~~ then the restoration of service to that customer shall only be made and the water supply effected to that property upon the payment of ~~a service charge according to a schedule of fees~~ the delinquent amount due ~~accordance to a schedule of fees,~~ as shall be modified from time to time by the council, and made available for public viewing in the city clerk's office for cutting off service and for turning the water back on during regular hours. A charge for such service shall be assessed on the next available billing cycle, the fee for which shall be in accordance with a schedule of fees within Appendix A as may be modified from time to time by the Council. Any restoration of service occurring before 8 a.m. or after 4:30 p.m. on regular working days, or all other hours occurring on weekends and holidays, shall be assessed as an after-hours charge as provided for within the schedule of fees referenced above. ~~After hours, weekends and holidays, the charge shall be as set by the city for restoring service.~~ When the water department has locked a meter, by reason of delinquency of a customer in payment of a bill, and finds it necessary, upon a later request, to unlock that meter, then in addition to the cutoff charge provided in subsection (a) of this section, an additional charge as set by the city shall be made for unlocking ~~resetting~~ the meter during working hours and for after hours, weekends and holidays.

**Section 7:** Section 82-48, Billing and payment for water service, within Chapter 82, Utilities, Article I, In General, Division 2, General Billing Procedures, is hereby amended as follows:

*Sec. 82-48. - Billing and payment for water service.*

- (a) All bills for water service shall be rendered monthly and as soon after the meter reading date as is practicable. ~~Reasonable care will be exercised for delivery of water bills.~~ Failure to receive such bills shall not relieve the consumer from payment of bills within the prescribed period, nor exempt him from the responsibility imposed for delinquency of accounts.
- (b) For water billing purposes, duplex apartments shall be considered as separate dwellings. All other multiple dwellings not separately metered shall be billed as commercial establishments.

**Section 8:** Section 82-70, New account service fee and transfer fee; deposit required, within Chapter 82, Utilities, Article I, In General, Division 3, Water Service Charges, is hereby amended as follows:

*Sec. 82-70. - New account service fee and transfer fee; deposit required.*

- (a) *Service fee for new or transferred accounts.* A service fee is established for setting up new accounts and/or transferring of any and all accounts from one address to another. These fees shall be according to a schedule of fees, as shall be modified from time to time by the council, and made available for public viewing in the city clerk's office.
- (b) *Cash deposit.* The water department shall also demand from all consumers making application for water service a cash deposit not to exceed two and one-half times the estimated monthly water, refuse collection ~~and sewer service charges,~~ sewer service charges, and stormwater charges with a minimum set by the city for single-family dwellings and for commercial establishments and multiple dwellings, as set out in the schedule of fees in Appendix A of this code. ~~Any sum so deposited, upon the customer's failure to make payment for water or sewer service or any other indebtedness due to the city when due, shall be applied upon payment thereof.~~ In case the deposit shall, for any reason, be reduced to less than the estimate set forth in this subsection or in case experience reveals that the service consumption on the premises exceeds the estimated amount, the water department may demand additional deposit, and in case the consumer fails to comply with such demand, may discontinue the services. The department shall further require a minimum deposit as set by the city from all customers outside of the city.
- (c) Service orders for new accounts, transfers and termination service will be scheduled by the water department no earlier than the next working day. Service can be scheduled for the morning or afternoon periods; however a person over the age of 18 must be present to have water turned on. At the time of connection, a general release form must be signed by the customer and the service technician. If the customer is not home at the scheduled time the utility service will not be connected and a \$20.00 fee will be charged to the customer's water account for each additional trip made for the connection.

**Section 9:** Section 82-199, Water meters, within Chapter 82, Utilities, Article III, Water Service is hereby amended as follows:

*Sec. 82-199. - Water meters.*

- (a) *Required.* Every water service shall be supplied with a meter, and the meter must be so located that all water leaving the main on account of the service connection must pass through it. The meter shall be installed by the city, and shall be of such size as determined by the superintendent of the water department to be adequate for supplying the service. No check meters are to be used unless purchased and read by the consumers, and the department shall be relieved of any responsibility for the same.

- (b) *Placement.* No water meters shall be placed in driveways or upon any private property.
- (c) *Transmitters.* All water meters will transmit readings to city hall monthly, unless bad weather, technical problems, or in the event of other serious occurrences preventing said transmission of readings, and at such times, utility bills shall be estimated in such areas of the city, and in accordance with such schedule as shall be established by the water department with the approval of the city manager. Periodic inspections of all meters shall be made at such times as deemed advisable by the superintendent of the water department. Where the transmittal of a reading is questioned it shall be reread at the customer's request. Both parties of the reread must accept the findings so made. If the reading discloses an error against the customer the excess consumption will be credited to the customer's utility account. On the other hand, where no such error is found, the customer shall pay a fee for such reread which will be automatically billed on the customer's next bill. Such fee shall be according to a schedule of fees, as shall be modified from time to time by the council, and made available for public viewing in the city clerk's office.
- (d) *Testing.* Water meters shall be tested by the water department upon demand by any customer, upon a reasonable showing of evidence or belief that the meter is not recording accurately, and upon payment as required by the city for such test. In the event the meter is found, upon test, to be more than three percent fast, the sum paid shall be returned to the party paying the same.
- (e) *Removal or replacement.* The water department reserves the right to change a water meter when deemed necessary, and in the process of setting, removing or changing meters, the department will not be responsible for damaged or defective service lines, where the damage is not caused by the department.
- (f) *~~Unlawful Interference Tampering.~~* It shall be unlawful for any person, except a city employee who is duly authorized, to tamper or otherwise interfere with any meter used for the measurement of city water. A fee established in the schedule of fees within Appendix A to this code, as may be modified from time to time by the City Council, shall be applied to any water account for violation of this section. Provided, however, it shall not be deemed a violation for a water customer or a licensed plumber to access a meter for the sole purpose of shutting off the flow of water from the main line to the service line in order to mitigate damage caused either by a water leak or service line break. At the discretion of the Public Works Director, or designee, any damage caused to equipment owned by the City shall be the responsibility of the water customer and shall be billed to him or her accordingly.

**Section 10. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed to the extent of the conflict only.

**Section 11. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

**Section 12. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after publication.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS 12<sup>th</sup> DAY OF DECEMBER, 2016.

CITY OF MUSKOGEE

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JOHN R. COBURN, MAYOR

ATTEST:

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PAMELA S. BATES, CITY CLERK  
(seal)

Approved as to form and legality this 12th day of December, 2016.

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ROY D. TUCKER, CITY ATTORNEY