

ORDINANCE 2016-17

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING CHAPTER 70, UTILITIES, ARTICLE VII, BILLING PROCEDURES; AMENDING SECTION 70-681 PROVIDING FOR DEFINITIONS; AMENDING SECTION 70-682 PROVIDING FOR A BILLING SYSTEM; AMENDING SECTION 70-683 PROVIDING FOR SERVICE DEPOSITS GENERALLY; AMENDING SECTION 70-684 PROVIDING FOR INTEREST ON DEPOSITS; AMENDING SECTION 70-685 PROVIDING FOR REFUND OF DEPOSITS; AMENDING SECTION 70-686 PROVIDING FOR DUE DATE; DELINQUENT ACCOUNTS; PAYMENT OF COLLECTION COSTS AND ATTORNEY'S FEES; AND FOR CREATION OF LIENS; AMENDING SECTION 70-687 PROVIDING FOR LATE PAYMENT CHARGE AND DELINQUENT COLLECTION CHARGE; AMENDING SECTION 70-688 PROVIDING FOR A PROCESS TO DISPUTE BILLS; AMENDING SECTION 70-689 PROVIDING FOR CONSEQUENCES OF DISHONORED PAYMENTS; AMENDING SECTION 70-691 PROVIDING FOR THE DISCONTINUANCE OF SERVICE FOR NONPAYMENT; AMENDING SECTION 70-692 PROVIDING FOR NOTICE OF DISCONTINUANCE OF SERVICE FOR NONPAYMENT; AMENDING SECTION 70-693 PROVIDING FOR RESTORATION OF SERVICE FOLLOWING DISCONTINUANCE FOR NONPAYMENT; REPEALING SECTION 70-690 CONCERNING EXTENSION OF TIME FOR PAYMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

Section 1. That Section 70-681 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-681. - Definitions.

For purposes of this article, a utility service is defined as electric service, telecommunication service, water and sewer service, garbage collection, stormwater utility, and any other service, user fee, or material that may be due and payable to the city.

For purposes of this article, a utility bill is defined as the charges for any utility service as defined above, which may be billed either monthly or daily.

Section 2. That Section 70-682 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-682. - Billing system.

The city manager, or designee, shall establish mailing dates of utility bills and grouping of accounts for meter reading and billing under the system known as cycle billing, which will provide that each customer shall be billed once each month on a regular scheduled billing date. The Pay As You Go system does not provide for monthly bills and instead is charged daily.

Application for any utility service shall be made in such manner (whether written, facsimile (fax), or electronic) as required by the city. Applications for service by firms, partnerships, association, and corporations shall be made only by their duly authorized agents and the official title of such parties shall be provided at the time of application. Utility service can be provided in the name of one customer only at a given location. Such application shall constitute a written contract between the applicant and the city, which shall bind such applicant to pay for services rendered at its prescribed rates and to comply with all rules and regulations. Customer agrees to pay additional charges for delinquent accounts as outlined in section 70-686. Customer will provide state issued photo identification or driver's license, and agree to a personal identity/credit check at the applicant's expense.

A utility bill showing a separate charge for each service shall be prepared and forwarded monthly to customers on a monthly payment cycle. Pay As You Go customers do not receive a monthly statement. The fact that a customer does not receive a bill shall not constitute grounds for late payment credit or adjustment. A bill shall not be considered paid until remittance for same has been applied to the customer's account. The city shall not be responsible for delays or losses in transportation in the mail or otherwise.

Section 3. That Section 70-683 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-683.- Service deposit generally.

Prior to initiating utility service, the city shall, except as otherwise provided herein, require a deposit from all utility service customers. Application for service and payment of the deposit shall constitute an agreement that the deposit is advance payment for future utility service which may be applied as otherwise provided in this section. The city shall require a deposit satisfactory to secure the payment of bills as they may mature.

- (a) *Residential.* A customer deposit for all utility services at each location shall be equal to two (2) times the average bill for the subject premise for the previous 12 months.

The city may, however, take into consideration a positive report from a credit reporting agency to assign the minimum deposit required. Deposit requirements shall be evaluated based upon their payment record with the city or evidence of a satisfactory credit history from another utility. No deposit shall be required from a homeowner who provides a letter of satisfactory credit from another utility, i.e. no termination of service, not more than two (2) returned checks, or no delinquencies within the immediately preceding 24 months. Deposit for non-owner occupied customer cannot be waived.

- (b) *Nonresidential.* A customer deposit for all utility services at each location described as nonresidential, shall be required of all users in an amount equal to two (2) times the customer's average or estimated average monthly billing, except as otherwise provided for in this section. Deposits can be made in one of the following forms:
 - 1. Cash deposited with the city.
 - 2. A certificate of deposit in the name of the customer, along with an assignment of the face amount of the certificate of deposit, executed by the customer and the bank from which the certificate of deposit was obtained. Upon termination of service, the face amount of the certificate of deposit will be refunded to the customer, less any outstanding charges.
 - 3. A surety bond issued by a surety company authorized to do business within the state, on bond forms provided by the city. The bonding company shall provide written notice to the city 30 days prior to cancellation of a bond.
 - 4. A letter of credit issued by a bank authorized to do business within the state and located in the county, upon terms and on forms approved by the city. Any bank providing a letter of credit shall be required to provide written notice to the city 60 days prior to cancellation of a letter of credit.
- (c) *Transfer of residential deposits.* Residential deposits may be transferred from one location or address to another location or address upon termination of service at the first location or address, provided the customer has maintained a good city utility bill payment record. The remaining balance for service at the first location or address shall be transferred to the new account and shall be due and payable on the next billing cycle.
- (d) *Name change on deposit.* A deposit can only be transferred to a different customer in the event of death or when a business has purchased all assets. The legal documents must specifically state that the utility deposits are part of the assets transferred to the new owners. Legal documents must be provided to substantiate qualification for any transfers under this subsection.
- (e) *Poor payment policy.* Residential customers with a history of poor payment may be required to convert their accounts to Pay As You Go. Poor pay is defined as customer who has had a dishonored check, late payments, missed payments, default on a Special Payment Arrangement (SPA), current diversion, meter tampering, a disconnect for nonpayment during the last consecutive 12-month period, failure to pay for all utility services billed, or any other payment issues.

(f) *Short-term service.* A landlord with an existing service that needs short-term service for an unoccupied rental unit will be put on a Pay As You Go for that unit until a new tenant begins service.

(g) *Exemptions.*

1. *Government agencies.* A federal, state or local government shall initially not be required to pay a deposit.

2. *Multiple nonresidential accounts.* A customer with an existing nonresidential account may make application for deposit exemption on additional nonresidential accounts providing the following criteria are met:

a. The account must be current with no late payment charges in the past 12 months.

b. The name of the business must match the name on the request for waiver.

(h) *Exceptions.* City management may approve a review and/or adjustment, as warranted, of the total deposit amount as well as extended time for full payment of deposit not to exceed 12 months.

Section 4. That Section 70-684 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-684. - Interest on deposits.

All cash utility deposits held by the city for all utility services provided shall earn interest in accordance with the following criteria:

(a) Deposits will earn interest from the date of posting forward to the date of final disbursement.

(b) Deposits shall earn interest at a rate equal to the rate at the commercial bank where the city maintains the customer deposits.

(c) Interest will be calculated monthly when accounts are terminated, and will be posted as of the termination date on a prorated basis.

(d) At the time a utility account is terminated, the deposit and any interest earned thereon will be applied to the customer's final bill to the extent necessary to pay that bill. Any amount of the deposit plus earned interest then remaining shall be refunded to the customer.

(e) Any nonresidential noncash deposits shall not earn interest or receive credit for interest.

Section 5. That Section 70-685 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-685. - **Refund** of deposit.

The city may from time to time refund utility deposits upon written request from any owner occupied residential customer. Deposits shall be credited to the customer at the end of two years provided that the customer has maintained a satisfactory payment record. A satisfactory payment history shall be defined as a payment history that consists of fewer than two (2) penalties, no returned checks, and no delinquencies for a minimum of two (2) consecutive years. This provision shall apply to only one account per customer.

Deposits for nonresidential and non-owner occupied accounts will not be refunded or credited while the customer has an active utility account with the city.

Section 6. That Section 70-686 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-686. - Due date; delinquent accounts; payment of collection costs and attorney fees; creation of liens.

- (a) Monthly utility bills shall become due and payable 20 days from the billing date and shall become delinquent accounts if not paid in full by the close of business on the 20th day after the billing date. Pay As You Go accounts are considered delinquent if the balance on the account is negative for 2 days in a row.
- (b) The owner and/or consumer of any premises supplied by any utility services by the city shall pay all costs of past due collections, including reasonable attorney fees, incurred in the collection of charges, bills, accounts, liens and penalties imposed by virtue of this article.
- (c) A delinquent account, including any utility services and other charges on account, shall be discontinued in accordance with the provisions contained in section 70-691, regardless of the status of the owners' other accounts. The electric and/or water supply shut off from and to the premises of the owner or consumer from whom such account is in arrears may be shut off. A reconnection charge as specified in the City's then current adopted fees resolution shall be assessed against such customer.
- (d) When an owner or consumer vacates or sells property leaving a delinquent bill against such property vacated or sold, the city may, at its option, refuse to provide any other service to the same owner or consumer for use in the future until the date the original delinquent account is paid, regardless of whether the other accounts of the owner or consumer are in good standing.
- (e) When utility services are furnished to the owner of any premise, the charges for such services shall be and constitute a lien against the premises, and shall become effective and binding as such lien from the date upon which the account becomes due, unpaid and in arrears. Existing liens and liens imposed hereafter as set out in this subsection shall be treated as special assessment liens against the subject real property, and until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved; the maximum rate of interest allowable by law shall accrue to such delinquent accounts. Such liens for service charges and penalties shall be enforced by any of the methods provided in F.S. Ch. 86; or, in the

alternative, foreclosure proceedings may be instituted and prosecuted under the provisions applicable to practice, pleading and procedure for the foreclosure of mortgages on real estate set forth in state law, or may be foreclosed per F.S. Ch. 173; or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law.

- (f) The owner shall pay all costs of collection, including reasonable attorney fees, incurred in the collection of fees, service charges, penalties and liens imposed by virtue of this article. The remedy provided in this subsection shall be cumulative and shall not be construed to waive the right of the city to require payment of any bill in arrears before renewing any services of the city to the premises in question.
- (g) If unpaid, charges under this division shall constitute a lien against the property, and no utility service to the property will be provided until these charges are paid in full, provided, that as to any rental unit, service may not be refused or discontinued to the owner or a current tenant, on account of a bill owed by a previous tenant, except to the extent the owner or current tenant received a direct benefit from service provided to the prior tenant.

Section 7. That Section 70-687 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-687.- Late payment charge and delinquent collection charge.

- (a) Utility bills will be subject to a late payment charge on any amount unpaid on the account by the close of business on the 20th day after the billing date. A late payment charge, in accordance with the then current adopted fees resolution, shall be imposed and collected.
- (b) Customer agrees to pay additional charges for delinquent accounts as outlined in section 70-686. If the charges for all or any part of the services provided are not paid by the specified disconnect date or as otherwise provided by state law after the date of any bill rendered, service to the delinquent customer may be immediately discontinued unless satisfactory payment arrangements have been made. Such utility service shall not be restored until the delinquent bill and any reconnection charges are paid. Any part of a utility bill that is delinquent shall constitute the entire bill being delinquent.

Section 8. That Section 70-688 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-688. - Disputed bills.

Disputed utility bills must be brought to the attention of the utility billing office in writing within ten days from the billing date to avoid late payment charges. Disputed bills that are paid and subsequently resolved in the customer's favor will be adjusted and credit given, on subsequent bills. Disputed bills that are not paid when due and not resolved in the customer's

favor will be subject to late payment charges, disconnection for nonpayment, reconnection fees, court costs, attorney's fees and additional deposit requirements as may be appropriate.

Section 9. That Section 70-689 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-689. - Dishonored payments.

If a payment of a utility bill is not honored by a financial institution, including, but not limited to, payments by check, electronic funds transfer, or credit card the city may deny the payment of future utility charges by such means. Payments for the following 12 months must be in the form of cash, money order or certified check. The privilege to utilize various payment methods may be reinstated at the customer's request once the customer has regained a satisfactory payment record as defined in Sec. 70-685. All accounts disconnected for a payment will not be reconnected until the total delinquent amount and reconnection charges have been paid in cash, money order, or certified check at the Customer Service Office during normal operating hours.

Each dishonored payment will be subject to the following charges:

- (a) A penalty fee with a minimum as specified in the City's then current adopted fees resolution or as permitted by Florida Statutes.
- (b) Any late payment charges incurred due to the dishonored Payment.

Section 10. That Section 70-690 of the Code of Ordinances, City of Ocala, Florida, is hereby repealed.

Section 11. That Section 70-691 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-691. -Discontinuance of service for nonpayment authorized.

Failure to pay a delinquent utility bill within five days after the billing due date shall be cause for the city to discontinue all utility service or such part thereof as may be ordered by the city manager or designee.

Section 12. That Section 70-692 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-692.- Notice of discontinuance of service for nonpayment.

Customers will be notified on each utility billing statement of the date that utility services are eligible to be cut for nonpayment. This will be the only notice sent to customers regarding discontinuance of service for nonpayment.

Section 13. That Section 70-693 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 70-693. - Restoration of service following discontinuance for nonpayment.


- (a) After utility services are discontinued for nonpayment of a delinquent utility bill, service to the customer at the premises shall be restored only after payment of the delinquent unpaid bill in full, plus a reconnection charge.
- (b) If satisfactory arrangements for restoration of service are made, the reconnection charge shall be as follows:
1. During normal operating hours as specified in the City's then current adopted fees resolution.
 2. After normal operating hours (evenings, weekends and holidays), the reconnection charge as stated in this subsection shall be as specified in the City's then current adopted fees resolution. After hours reconnects will be limited to two (2) per calendar year. No after hour reconnects will be allowed for accounts that have been disconnected for a dishonored payment.
 3. Any unauthorized reconnection or diversion of services will result in the discontinuance of service and a fine (as specified the City's then current adopted fees resolution) will be imposed in addition to the appropriate reconnection charge. Service will not be restored until the total delinquent amount plus the fine is paid in cash, money order or certified check at the Customer Service Office during normal operating hours. In the event of unauthorized reconnection or diversion of services, and damage is done to the service entrance or the utility's equipment, the customer will be responsible for all costs of repair and replacement of said equipment. Any cost incurred by the utility for repair or replacement will be added to the above fines and delinquent amount and must be paid before service will be restored. No after hours reconnection will be allowed when an unauthorized reconnection or diversion of services has been discovered.
- (c) A reconnection charge will be assessed to all customers whose service was disconnected because the past due balance was not paid by close of business on the 25th day after the billing date.

Section 14. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 15. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 16. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.

ATTEST:

By: 
Angel B. Jacobs
City Clerk

CITY OF OCALA

By: 
James P. Hilly, Sr.
President, Ocala City Council

enied by me as Mayor of the City of Ocala, Flo/,)a, on

1/19

'2016.

By:

Reuben Kent Guinn
Mayor

Approved as to form and legality:

By:

Patrick G. Gilligan
City Attorney

Ordinance No: 2016-17
Introduced: 1/5/2016
Adopted: 1/19/2016
Legal Ad No: A000879458- 1/8/16