

ORDINANCE NO. 2025-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 86, UTILITIES, ARTICLE 5, FEES, CHARGES AND BILLING PROCEDURES, DIVISION 1, OF THE SAN MARCOS CITY CODE TO ALLOW FOR THE PLACEMENT OF A MUNICIPAL UTILITY LIEN ON CERTAIN PROPERTIES, OTHER THAN HOMESTEAD PROPERTY, FOR WHICH THE OWNERS HAVE NOT PAID UTILITY BILLS AND RELATED CITY ASSESSMENTS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 86, Utilities, Article 5, Fees, Charges and Billing Procedures, Division 1 of the San Marcos City Code is hereby amended to add a new Section 86.203, Municipal Utility Lien to read as set forth below. Added text is indicated by underlining.

Sec. 86.203. Municipal utility lien for delinquent payments owing for municipal utility service and assessments.

(a) Subject to the provisions contained in this section and pursuant to state law, the city is authorized to impose a lien on real property owned by any customer of the city's electric, water, wastewater, and drainage utilities and other city charges or assessments included with a customer's utility bill, when such customer has failed to pay for the utility service provided.

(b) Any lien authorized by this section shall include all delinquent charges for utility service, penalties, interest, and collection costs.

(c) Any lien authorized by this section shall be perfected by recording it in the Official Public Records of the county in which the real property associated with the unpaid utility account on a notice of lien, in a form approved by the city attorney, and duly executed by the city manager or their designee. The notice of lien shall contain a legal description of the real property and the utility's account number for the delinquent charges.

(d) Provided however, any lien authorized by this section shall not apply to:

(1) homestead real property; or

(2) any bills for utility service connected to a tenant's name after the appropriate city utility department has received notice from the

property owner that the property is rental property with an account not in the owner's name.

(e) The lien authorized by this section shall be inferior to a bona-fide mortgage lien that is recorded before the recording of the city's notice of lien in the Official Public Records of the county in which the real property associated with the unpaid utility account is located. To the extent permitted by law, the lien authorized by this section is superior to all other liens, including without limitation, previously recorded judgment liens and any lien recorded after the city's lien.

(f) The city manager or their designate shall have the authority to release any lien imposed in accordance with this section when all delinquent charges for utility service, penalties, interest, and collection costs have been fully paid. The release shall be in a form approved by the city attorney and shall be duly executed by the city manager or their designee, and recorded in the Official Public Records of the county in which the lien was recorded.

(g) The authority and the rights granted in this section are in addition to any and all legal rights and remedies, methods of collection and/or security available to the city under common law, statutory law, the city's charter or ordinances.

SECTION 2. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 3. All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 4. This ordinance shall become effective upon adoption on second reading.

PASSED AND APPROVED on first reading on March 4, 2025.

PASSED, APPROVED AND ADOPTED on second reading on March 18, 2025.

Jane Hughson
Mayor

ATTEST:

APPROVED:

Elizabeth Trevino
City Clerk

Samuel J. Aguirre
City Attorney