

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING SECTIONS 26-3, 26-4, 26-8 AND ADDING SECTION 26-12 TO CHAPTER 26 – UTILITIES OF THE DENTON CODE OF ORDINANCES; PROVIDING AN OPEN MEETINGS CLAUSE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A REPEALER; PROVIDING A SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after recent policy discussions by both the Public Utilities Board and the City Council and subsequent direction to staff by the City Council, changes have been made to Chapter 26 – Utilities of the Denton related to residential utility deposits, internal credit scoring, and timing of utility service disconnection;

WHEREAS, Section 26-3 – Service deposits and alternatives, Section 26-4 – Additional deposit required, and Section 26-8 – Grounds for Disconnection of Service have been amended and Section 26-12 – Internal Point Based Scoring has been added;

WHEREAS, the City Council of the City of Denton deems it to be in the public interest to adopt these amendments and addition to the Code of Ordinances as set forth herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings contained in the preamble of this ordinance are incorporated herein as if fully set forth within the body of this ordinance.

SECTION 2. The following sections of the City of Denton Code of Ordinances, Chapter 26, “Utilities” are amended to read as follows:

Refer to Exhibit “A” incorporated herewith and attached hereto, which sets forth the amendments to Sections 26-3, 26-4, and 26-8.

SECTION 3. Section 26-12 is added to the City of Denton Code of Ordinances and is as follows:

Refer to Exhibit “A” incorporated herewith and attached hereto, which sets forth the new Section 26-12.

SECTION 4. It is officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of this meeting was given as required by law.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Denton and shall not repeal any of the provisions of said ordinances except for the sections specifically repealed by this ordinance and in those instances where the provisions of those ordinances are in direct conflict with the provisions of this ordinance.

SECTION 6. If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or the application thereof to any person or under any circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton, Texas, hereby declares it would have enacted such remaining portions despite any such invalidity.

SECTION 7. Save and except as amended hereby, all of the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases in the City Code of Ordinances shall remain in full force and effect.

SECTION 8. This ordinance and the rates herein adopted shall become effective, charged, and applied to all utility services rendered by the City, and shall become effective with the first billing issued on and after January 23, 2018, and a copy of said rates and charges shall be maintained on file in the Office of the City Secretary of the City of Denton, Texas.

PASSED AND APPROVED this _____ day of _____, 2018.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY:  _____

EXHIBIT "A"

ARTICLE I. IN GENERAL

Sec. 26-3. Service deposits and alternatives.

Employees of the utilities customer service department will determine the appropriate service deposit requirement based on the customer's credit rating with the city utility system or by a reliable external credit source available to the city.

(a) *Residential customers.* If a customer receiving residential service is required to make a deposit, the deposit may be as much as an amount equal to one-sixth of the last twelve (12) months billing at the service location or a similar location as determined by the utility representative.

(b) *Residential exemption from deposit.* No service deposit will be required of an applicant for residential utility service if the applicant can provide and qualify for one (1) of the following:

(1) The applicant has an acceptable credit rating for twelve (12) consecutive months within the last two (2) years with the city utility system.

(2) The customer receives an acceptable credit rating from a credit source available to the city. The customer must pay the cost of obtaining the credit rating. This cost will be set annually within the utility rate ordinance, but will not exceed one hundred dollars (\$100.00).

(3) Customers with little credit history or a fair credit rating may be allowed to provide one of the following alternatives in lieu of deposit:

a. A signed letter of good standing for utility services from a former utility company for verification within twenty (20) days of applying for service; or

b. The applicant provides a cosigner who accepts responsibility and is verified to have an acceptable credit rating with the city utility system, and who is willing to be listed on the applicant's account to guarantee payment of the applicant's utility bills. This guarantee will be in effect until the applicant develops an acceptable credit rating and the cosigner requests removal from the account.

(4) Customer is participating in a verifiable permanent supportive or rapid rehousing program and provides a dated and completed certification letter upon applying for utility services.

(5) Customer has been qualified as a Victim of Family Violence and provides a dated and completed certification letter upon application for utility services.

(c) *Commercial customers.* In the case of commercial or industrial service, if the applicant for service is required to make a deposit, the amount of the deposit shall be an amount up to one-sixth of the last twelve (12) months of billing at the location where service is requested. If no previous history is available for the location, a representative facility similar to the type where service is requested will be used to establish the amount of the deposit.

(d) *Commercial exemption from deposit.* An applicant for utility service for a commercial or industrial entity or business may not be required to make a deposit if the applicant:

(1) Provides the city an acceptable commercial/industrial credit rating for the last twenty-four (24) months the customer received service from the city utility system; or

(2) The customer receives an acceptable credit rating from a credit source available to the city. The customer must pay the cost of obtaining the credit rating. This cost will be set annually within the utility rate ordinance, but will not exceed one hundred dollars (\$100.00).

(3) If the credit of a commercial/industrial customer for service has not been established satisfactorily to the city, the applicant may provide an irrevocable letter of credit in lieu of a deposit within twenty (20) days of signing for service. The irrevocable letter of credit must be executed by a Texas bank and must be approved by the city manager and city attorney. The customer must maintain the irrevocable letter of credit in effect at all times. If the customer allows the irrevocable letter of credit to expire, the customer shall pay a deposit in the amount provided as listed above, or the city may terminate utility service.

(e) For purposes of this chapter, "acceptable credit rating" shall mean a credit rating which is based upon a commonly used formula or a formula approved by the city council.

Sec. 26-4. Additional deposit required.

(a) *Additional deposits.* The city may require a customer to make an additional deposit in the event that a deposit made as specified in subsection (a), (b), (c), or (d) is subsequently determined to no longer be sufficient. The city may disconnect service if the customer does not remit the additional deposit within fourteen (14) days of the city's request, provided a written disconnect notice has been issued. Such disconnect notice may be issued concurrently with the written request for the additional deposit.

A customer may be required to pay a deposit or put down an additional deposit amount if:

(1) The customer has been terminated from the receipt of utility service due to non-payment of a utility bill; or

(2) The city has determined there is evidence of a customer tampering with the city's meter; or

(3) The customer has an unacceptable credit rating and the city does not have in its files a current cosigner who meets the requirements of section 26-3(a) or (b); or

a. Customer credit rating and deposit amount would be determined by internal point based scoring

A	<150 points	No Deposit
B	150-300 Points	No Deposit
C	301-750 Points	No Deposit
D	751-2000 Points	1 Month
E	>2001 Points	2 Month

(4) The customer has been required to pay or is paying off a utility account balance previously deemed uncollectible or is past due; or

(5) The customer's irrevocable letter of credit filed with the city in lieu of a deposit has expired.

(b) *Interest.* The city shall pay interest on deposits at an annual rate established by city council. If a refund of the deposit is made within thirty (30) days of receipt of the deposit, no interest will be paid. If the deposit is retained more than thirty (30) days, payment of interest shall be retroactive to the date the entire amount of deposit has been made. The deposit shall cease to draw interest on the date it is returned or credited to the customer's account. Payment of the interest to the customer shall be made at the time the deposit is returned or credited to the customer's account. If the customer's account is active, the deposit will automatically be applied to the customer's account to offset current billing.

(c) *Credit checks.* After making application for service, the customer service department may at any time pursue a credit reference check. If the credit check shows the customer does not have an acceptable credit rating, the customer will be required to place a deposit on the account. Failure to do so will result in the discontinuance of service with no less than two (2) days of notification given verbally or in writing, to the prospective customer by the customer service department.

Sec. 26-8. Grounds for discontinuance of service; Timing of Disconnection of Service.

(a) The assistant city manager-utilities, or his designee, shall discontinue service to any person violating any provision of this chapter or any published rule or regulation of the utilities department, or of the city, until such violation has been corrected.

(b) The assistant city manager-utilities, or his designee, shall discontinue service to any person found defrauding the utilities department by tampering with any water or electric line or meter. Service disconnected for any such reason shall not be restored until the assistant city manager-utilities, or his designee, is satisfied that all loss to the utilities department has either been repaid, or is financed for repayment, and that service may be restored without undue risk of further loss through such acts or nonpayment.

(c) Subject to the approval of the city manager, the assistant city manager-utilities, or his designee, shall discontinue service to any person found to be unreasonably wasting or diverting electricity or water.

(d) Utility services may be terminated if payments become delinquent. The city may terminate services at any time upon delinquent status of an account. Once services are terminated, any deposit held by the city will be applied to the delinquent account when the final bill is generated. If the customer wishes to reconnect services, the customer will be required to pay a delinquent service charge or a reconnect charge and the remaining balance of the delinquent amount or at least fifty (50) percent with an agreement to pay the remainder with three (3) consecutive equal monthly installments. The city may refuse service and require payment in full, based on the credit history of the customer. For continued service, the city will require an additional deposit amount as described in 26-4.

(e) The time at which the disconnection of service shall be done will be at the discretion of the City except as follows:

(i) **Disconnection on holidays or weekends** – Unless a dangerous condition exist or the customer requests disconnection, service shall not be disconnected on holidays or weekends, or the day immediately preceding a holiday or weekend, unless utility personnel are available on those days to take payments and reconnect services. Services shall also not be disconnected during the weeks of Thanksgiving, Christmas or New Year's.

(ii) **Disconnection during extreme weather.** Utility services will not be disconnected for nonpayment when on the day of disconnection:

(a) The National Weather Service (NWS) has forecasted the day's temperatures to fall below 32 degrees Fahrenheit

(b) The NWS has forecasted the day's high temperatures to be at or above 100 degrees Fahrenheit or a heat advisory has been issued for Denton County.

Sec 26-12 Internal Point Based Scoring

Utility accounts within the utility billing system receive points for each credit event that occurs on their utility account. Each credit event and points associated will remain on the customer's account for a period of no less than 365 days from the date of occurrence.

- 1) Late fee penalty – 50 points
- 2) Disconnect Notice – 200 Points

- 3) Disconnection for Non-Payment of Utilities – 500 points
- 4) Check returned for other reasons other than insufficient funds – 200 points
- 5) Insufficient Funds payment returned – 200 points
- 6) Collection Letter for closed utility account mailed – 1000 points
- 7) Account referred to third party collection agency – 1000 points
- 8) Write-off as uncollectable debt – 2000 points
- 9) Bankruptcy – 2000 points