

ORDINANCE # 2022.03.08__

AN ORDINANCE OF THE CITY OF GLEN ROSE, TEXAS, AMENDING ARTICLES 13.01 “GENERAL PROVISIONS” (OF THE UTILITIES ORDINANCE), ESTABLISHING FINANCIAL RESPONSIBILITY FOR UNAUTHORIZED USE OF CITY SERVICES AND AUTHORIZING LIENS FOR DELINQUENT BILLS AND INITIATION OF CRIMINAL CHARGES FOR THEFT OF SERVICES; ARTICLE 13.02 “SOLID WASTE,” MAKING IT UNLAWFUL TO BRING SOLID WASTE FROM OUTSIDE THE CITY AND SET IT OUT FOR COLLECTION BY THE CITY’S GARBAGE COLLECTION CONTRACTOR, PUNISHABLE BY A FINE OF UP TO FIVE HUNDRED DOLLARS (\$500); SUBSECTION 13.03.104 “SEWER RATES; RESIDENTIAL WINTER AVERAGING”; AND, THE TABLE FOUND AT SEC. A5.061 (A) OF ARTICLE A5.000 “UTILITY RATES AND CHARGES” OF THE CITY’S CODE OF ORDINANCES, ESTABLISHING AND REVISING MISCELLANEOUS UTILITY DEPOSITS AND FEES; PROVIDING FOR REPEALING, SEVERABILITY AND PROPER NOTICE, MEETING, AND QUORUM CLAUSES; REQUIRING PUBLICATION; AND, ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Glen Rose (City) is a Type A General Law Municipality;

WHEREAS, in §552.001(a) of the Texas Local Government Code (TLGC), “‘utility system’ means a water, sewer, gas, or electricity system”;

WHEREAS, pursuant §552.001(b) of the TLGC, “A municipality may purchase, construct, or operate a utility system inside or outside the municipal boundaries and may regulate the system in a manner that protects the interests of the municipality.

WHEREAS, pursuant to §552.0025(c) of the TLGC, “A municipality may require varying utility deposits for customers as it deems appropriate in each case”;

WHEREAS, in Opinion No. H-1289 issued on Dec. 18, 1978 in response to an inquiry about late charges, Texas Attorney General John L. Hill opined, “A five percent late charge on bills for electric utility service is neither interest nor penalty, but merely a cost of doing business assessed against a delinquent consumer, so long as there is a reasonable relation between the amount of the charge and the costs it purports to recoup”;

WHEREAS, pursuant to §552.0025(d)(e) and (f) of the TLGC, “a municipality may by ordinance impose a lien against an owner's property, unless it is a homestead as protected by the Texas Constitution, for delinquent bills for municipal utility service to the property” except that, “the municipality's lien shall not apply to bills for service connected in a tenant's name after notice by the property owner to the municipality that the property is rental property” and “the municipality's lien shall not apply to bills for service connected in a tenant's name prior to the effective date of the ordinance imposing the lien”;

WHEREAS, pursuant to §28.03(b)(3)(B) of the Texas Penal Code, “Criminal Mischief” identified as a Class A Misdemeanor is committed if an “...actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss”;

WHEREAS, pursuant to §363.113 of the Texas Health and Safety Code (THSC), a municipality is required to provide solid waste management services “to all persons within its jurisdiction”;

WHEREAS, pursuant to §363.111 of the THSC, a municipality’s “governing body may adopt rules for regulating solid waste collection, handling, transportation, storage, processing, and disposal”;

WHEREAS, pursuant to §363.116 of the THSC, the governing body of a municipality may enter into a contract for solid waste management services;

WHEREAS, pursuant to §51.001 of the TLGC, “The governing body of a municipality may adopt, publish, amend or repeal an ordinance...that: is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality”;

WHEREAS, pursuant to §51.001 of the TLGC, in the lawful exercise of the powers granted to it and for the good government, peace, and order of the City and to better protect the interests of the municipality, the City Council has decided to amend Articles 13.01 “General Provisions”, Article 13.02 “Solid Waste”, Subsection 13.03.104 “Sewer rates; residential winter averaging,” and the table found at Sec. A5.061 (a) of Article A5.000 “Utility Rates and Charges” of the City’s Code of Ordinances.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLEN ROSE, TEXAS:

SECTION 1 (of 17)

INCORPORATION OF RECITALS

All of the above recitals are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2 (of 17) AMEND SEC. 13.01.002 “UTILITY SERVICE APPLICATION REQUIREMENTS”

Amend Sec. 13.01.002 “Utility service application requirements” to add subsections (e) “Identification of account type,” (f) “Disclosure required,” and (g) “Certificate of Occupancy required” to read as follows:

(e) Identification of account type required. The applicant shall identify whether service is being requested for a residential or commercial account.

(f) Disclosure required. Disclosure shall be made as to whether or not the applicant previously had utilities with the City.

(g) Certificate of occupancy required. A currently valid certificate of occupancy issued by the city’s building department must be provided with applications for all structures to which utility service previously has not been provided or which have been red-tagged by the building department for code violations and with all applications for commercial accounts.

SECTION 3 (of 17) AMEND SEC. 13.01.005 “PAYMENT REQUIREMENTS”

Amend Sec. 13.01.005 “Payment requirements” to add subsections (h) “Account suspension fee” and (i) “Financial responsibility for unauthorized services” to read as follows:

(h) Account suspension Fee. On the day when service disconnects are scheduled to take place, immediately upon issuance of a work order to discontinue service to an account, that account is to be considered “suspended” and a suspension of service fee shall be assessed in the amount set forth in the fee schedule in appendix A of this code. If payment in full is received before the service has been disconnected in the field, no reconnect fee will be assessed.

(i) Financial responsibility for unauthorized services. If a person commits, allows another person to commit, or benefits from utility service diversion, unlawful use of service, or damage to City utility equipment, the City may collect payment from the person equal to actual cost of or if the actual costs cannot be determined, the estimated cost of the services provided.

SECTION 4 (of 17)
AMEND SEC. 13.01.007
DISCONTINUATIONS OF SERVICE REQUIRING NOTIFICATION

Amend Sec. 13.01.007 “Discontinuations of service requiring notification” to add the following statement to the end of this subsection:

Discontinuation of service under this subsection may only be done during regular business hours and may not be done on the day prior to any day when city hall is scheduled to be closed.

SECTION 5 (of 17)
AMEND SEC. 13.01.011
COLLECTION OF PAST DUE ACCOUNTS

Amend Sec. 13.01.011 “Collection of past due accounts” to add subsection (c) to read as follows:

(c) At the discretion of the city attorney a lien may be imposed against an owner’s property for delinquent bills for municipal utility service to said property provided the property is not a homestead protected by the Texas Constitution and the lien is not for bills for service connected in a tenant's name.

SECTION 6 (of 17)
ADD SEC. 13.01.013
DEFINITIONS

Add Sec 13.01.013 “Definitions” to read as follows:

Sec. 13.01.013 Definitions

Account. Every address to which utility service is provided shall be considered a separate account.

Applicant. Any person or business entity requesting utility service from the City.

Customer. Any recipient of the City’s utility services.

Delinquent. Where full payment has not been received by the due date.

Due Date. The date on which utility payments must be received at City Hall to avoid being considered delinquent. The due date is the first day of the month following the issuance of utility bills. The postmark on the envelope of the bill, or in the absence of a postmark, the date on the

bill, shall constitute proof of the date of issuance. If the due date falls on a holiday or weekend, the due date, for payment purposes, shall fall on the next business day.

Garbage collection. Also known as municipal solid waste collection.

Good standing. A designation given to a customer of the city who has had a utility account (or accounts) with the city for at least twelve months and that account (or those accounts) has (or have) not become delinquent for the past twelve (12) months. A customer who has not had an account with the city for the past twelve (12) months can qualify for a “good standing” designation if that customer has no history of delinquencies with the City for the past twelve (12) months and provides a statement from another municipality that the customer had a utility account with that municipality for at least twelve (12) months during the past two (2) years and that the customer’s account had no history of delinquencies during the last (12) months that the account was open. The statement must reference the customer’s name and account number and provide the contact information needed for city staff to verify the information provided.

Large commercial account. A restaurant with a fire suppression hood, a high water usage type of business such as a car wash, laundromat, campground, apartment complex, an institutional facility, or other similar type of accounts.

Medium commercial account. Any account not identified as a “large commercial account” and for which no more than twelve (12) cubic yards per week of solid waste collection service has been subscribed.

Municipal solid waste collection. Also known as garbage collection.

Service. Water, wastewater, and/or garbage collection service. Sometimes referred to as “utility service.”

Small commercial account. Any account not identified as a “large commercial account” and for which no more than two (2) cubic yards per week of solid waste collection service has been subscribed.

Suspended account. An account is considered “suspended” when a service disconnect work order is issued. A suspended account is not eligible to receive city services until the cause of the suspension has been resolved in a manner consistent with the city’s ordinances and policies.

SECTION 7 (of 17)
ADD SEC. 13.01.014
REFUSAL OF SERVICE

Add Sec. 13.01.014 “Refusal of service” to read as follows:

Sec. 13.01.014 Refusal of service

The city shall have the right to refuse to provide utility service to:

- (a) Any applicant failing to fully satisfy all the requirements of this article; or,
- (b) Any applicant whom the City believes is applying for service at a service address where the current customer is in arrears primarily to allow the current customer to avoid payment of a past due invoice; or,
- (c) Any property which is not currently connected to the City's utility systems.

If the City denies an application for utility service under this article, the City shall provide the applicant notice of the denial, including the basis of the denial. An applicant denied utility service may file an appeal with the city administrator.

SECTION 8 (of 17)
ADD SEC. 13.01.015
THEFT OF SERVICES

Add Sec. 13.01.015 "Theft of services" to read as follows:

Sec. 13.01.015 Theft of services

City staff may initiate action against anyone suspected of engaging in the theft of the city's utility services. City staff may pursue Criminal Mischief charges pursuant to §28.03(b)(3)(B) of the Texas Penal Code against anyone found tampering with the city's utility metering equipment, operating city water valves, or in any way altering the city's utility system to provide service to a property where the city has not provided service or has discontinued service.

SECTION 9 (of 17)
AMEND SEC. 13.02.034
USE OF SERVICE MANDATORY FOR WATER CUSTOMERS

Amend Sec. 13.02.034 "Use of service mandatory for water customers" to read as follows:

Sec. 13.02.034 Use of service mandatory for water and/or wastewater customers.

All subscribers to the city's water and/or wastewater service are required to take the city's garbage collection service.

SECTION 10 (of 17)
ADD SEC. 13.02.038

CONTRACT REGULATES SOLID WASTE SERVICES

Add Sec. 13.02.038 “Contract regulates solid waste services” to read as follows:

Sec. 13.02.038 Contract regulates solid waste collection service

From time-to-time, the city contracts with an outside firm for solid waste management services. The terms and conditions of the city’s most recently City Council approved contract and amendments for solid waste management services shall be identified as “Exhibit A” and is, hereby, incorporated into this Ordinance by this reference for all intents and purposes. While in effect, the provisions of said contract shall regulate the collection and disposal of solid waste within the city. Anyone subscribing to the city’s solid waste collection service shall comply with the terms of said contract. Should any of the terms of said contract conflict with city policies or ordinances, the terms of the contract shall prevail.

SECTION 11 (of 17)

ADD SEC. 13.02.039

UNLAWFUL TO BRING SOLID WASTE INTO THE CITY

Add Sec. 13.02.039 “Unlawful to bring solid waste into the City” to read as follows:

Sec. 13.02.039 Unlawful to bring solid waste into the City for collection

It shall be unlawful for any person to haul, transport, or carry solid waste from any place outside the City to any place within the City for the purpose of causing the same to be collected by the City’s solid waste management service provider.

SECTION 12 (of 17)

AMEND SEC. 13.03.104

SEWER RATES; RESIDENTIAL WINTER AVERAGING

Sec. 13.03.104 shall be amended as follows:

Subsection (b) shall shall be amended to read as follows:

(b) Residential winter averaging. The monthly volume charges for residential class customers will be based on the individual customer’s average monthly water use during the preceding winter months of December, January, and February. The volumes used to compute these charges are based on the amount of water used by the residential class customers as measured by a meter. When no preceding winter average is available from records, the utility billing clerk shall estimate a volume to be used for this monthly volume charge based on the city’s average monthly winter residential water usage. **Customers receiving water service from Somervell County Water District**

(SCWD) must provide the city with copies of their SCWD bills for the most recent December through February billing period within ten (10) days of receipt of their February bill. If a SCWD bill is not provided within said ten (10) days, the city shall assess a late reporting fee and shall continue to assess a late fee every month thereafter until the SCWD bill is provided.

Subsection (c) shall be added to read as follows:

(c) Commercial customers receiving water from Somervell County Water District (SCWD). Commercial customers receiving water from SCWD must provide the City with copies of their monthly water bill from SCWD within 10 days of receipt of said bill to enable the City to calculate the customer’s city wastewater bill. If a SCWD bill is not provided within said ten (10) days, the city shall assess a late reporting fee, shall continue to assess a late fee every month thereafter until the SCWD bill is provided, and shall use the customer’s highest SCWD bill from the preceding twelve (12) month period to calculate the customer’s monthly city bill. When the city receives a copy of the SCWD bill, the city-issued bill(s) shall be adjusted to reflect actual usage.

SECTION 13 (of 17)
AMEND APPENDIX A “FEE SCHEDULE”
ARTICLE A5.0000 UTILITY RATES AND CHARGES

Amend the table found at Sec. A5.061(a) “Miscellaneous charges; deposits” in Article A5.000 “Utility Rates and Charges” in Appendix A “Fee Schedule” of the City’s Code of Ordinances as follows:

12.1 Replace the deposit section with the following:

Deposits:

Residential	\$150.00
Small comm	\$200.00
Restaurant	\$700.00
Large comm	\$1,000.00

Deposits for customers in “good standing”:

Residential	\$150.00
Small commercial	\$200.00

Medium commercial \$500.00
Large commercial \$1,000.00

Deposits for customers not in “good standing”:

Residential \$225.00
Small commercial \$300.00
Medium commercial \$750.00
Large commercial \$1,500.00

12.2 Add account suspension, disconnect, and late reporting fees as follows:

Account suspension fee: \$50.00

Disconnect of water service at customer request:
During business hours: \$50.00
After business hours: \$100.00

Late reporting fee: \$20.00

12.3 Amend the reconnect fee section to read as follows:

~~Reconnect fee (after nonpayment) \$100.00~~
Reconnect fees
To restore water service disconnected for non-payment: \$50.00
To restore sewer service to a customer without city water service where the sewer line was physically disconnected from the City’s system due to non-payment: \$500.00
Of water service at customer request during business hours: \$50.00
Of water service at customer request after business hours: \$100.00

SECTION 14 (of 17)
SAVINGS/REPEALING CLAUSE

Chapter 13 “Utilities” and the miscellaneous charges, deposits, and user fees listed in the table found at Section A5.061(a) of the City’s Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 15 (of 17)
SEVERABILITY CLAUSE

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional, illegal or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council of the City of Glen Rose hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 16 (of 17)
PROPER NOTICE, MEETING, AND QUORUM CLAUSE

It is hereby officially found and determined that the meeting at which this Ordinance was adopted by majority vote of the City Council of the City of Glen Rose, Texas was open to the public; that public notice of the time, place, and purpose of the meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code; and, that a quorum was present pursuant to §22.039 of the Texas Local Government Code.

SECTION 17 (of 17)
EFFECTIVE DATE

This Ordinance shall take effect immediately after its passage and publication in the City's official newspaper.

PASSED AND APPROVED this the 8th day of March, 2022.

APPROVED:

Julia Douglas, Mayor

ATTEST:

Rosario Sosol-Lihaut, City Secretary