Ordinance #O-

# AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO ADOPT AMEND CHAPTER 52 OF THE CODE OF ORDINANCES FOR THE CITY OF HENDERSONVILLE

**WHEREAS**, City Council and City staff have updated the policies and procedures for the billing and collection of City utility services accounts; and

**WHEREAS**, it is necessary to update provisions of Chapter 52 of the City Code of Ordinance to implement the revised policies and procedures;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA THAT:**

**SECTION 1.** This Ordinance shall be known as "An Ordinance to Update Chapter 52 of the Code of Ordinances for the City of Hendersonville for Billing and Collection of Utility Services Accounts."

**SECTION 2.** That Chapter 52 of the Code of Ordinances, City of Hendersonville, North Carolina is hereby amended to read as follows:

**Chapter 52 UTILITIES**

***ARTICLE I. IN GENERAL***

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**Sec. 52-10. Application for service.**

Application shall be made for water, sewer, solid waste removal or any other utility service that may be furnished by the city, which shall be required in writing. Such application shall include, but not limited to, the name and address(es) of the applicant, the type of utility service desired, the purposes for which the application is made and such other information as may be required by the city. Once submitted and approved, an application shall constitute a contract for utility service between the applicant and the city, with the terms being the City's standard utility service contract terms and conditions, duly adopted utility service policies, and this Chapter 52 of the Hendersonville Code of Ordinances being incorporated therein. The Finance Director shall have the authority to enter into the utility services agreements with customers on behalf of the city, and to determine the standard terms and conditions of the agreement, provided however that such terms and conditions are consistent with the terms of this Chapter 52, as amended.

With the exception of stormwater services, all properties (and if there is more than one connection on a property, all connections) must be subject to a utility services agreement in order to be eligible to receive utility services. No connection shall be made to any sewer or water lateral except after the utility services agreement has been entered. In addition to any other available remedy, violation of this section is also a misdemeanor as provided in section 1-6

The Utilities Director and Finance Director shall each be authorized to order the disconnection of a property (or a connection on the property) from utility service if neither the property owner nor the non-owner occupant of the property (for non-owner occupied properties) submits an application for service

and enters into the city's standard utility services agreement within five (5) days of being notified on behalf of the city, in writing, that there is no utility services agreement on file with the city for the property (or for one or more connections on the property).

**Sec. 52-11. Service to comply with technical regulations and policies.**

Any utility service furnished under the provisions of this chapter at any of the rates set forth in article II of this chapter shall be in accordance with and in compliance with all applicable technical provisions of this Code, state law, city ordinances and other applicable rules and regulations. With the approval of the City Manager, the Finance Director shall have the authority to adopt and amend administrative policies and procedures for billing and collection of utility service accounts where in their opinion, such policies are necessary to assist the Finance Department in maintaining the integrity of the billing and collection services provided. Such policies may be combined with and incorporated into City Council approved policies and procedures; however nothing herein shall authorize the Finance Director or City Manager to implement new fees and charges, add new collection remedies, or add new circumstances under which disconnections of utility services may occur without approval of City Council.

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***ARTICLE II. RATES AND CHARGES***

**Sec. 52-46. Deposits required.**

Along with the application for utility services, the applicant may be required to pay to the city a deposit as follows:

(a) The following deposits are required for all utility services inside and outside the corporate limits:

(1) Customers of utilities, opening accounts after the effective date of the ordinance from which this section is derived, shall make a deposit in the amount set forth by city council per the currently approved rates and fee schedule.

(2) The deposits heretofore or hereafter made shall be used for the purpose of ensuring the payment of utility bills and to secure the city against any loss that might be incurred in furnishing water, or other utility services, and ~~or~~ servicing such utility service accounts. ~~, and s~~Such deposit shall be refunded after 24 consecutive months of good payment history or upon termination of service, subject to the terms and conditions of this Article and the utility services agreement. The city may, at its option, apply the deposit, or any portion thereof, to the payment of utility service indebtedness which may accrue against the depositor or premises for and on account of which the deposit is made. Where the terms of a utility services agreement permit, a deposit may be applied to any outstanding utility service account balance which is due and payable to the city.

(b) ~~Utility water customers who deposit or portion of deposit is used to apply to account balances will be required to restore the deposit on the account before services will be restored.~~ All applicable charges shall be required to be paid before water service shall again be furnished to the premises in question.

(c) The deposits required by this section to be paid to the city shall be without liability on the part of the city for profit or interest.

(d) The city retains the right to retain deposits indefinitely to assure payment of utility charges.

(e) Every account holder may be required to pay a deposit for each property/account with the city.

(f) ~~Property owners that have a landlord/tenant agreement with the city may be required to maintain a deposit on the account for each property/account.~~

**Sec. 52-47. Deposits not to bear interest.**

The amount of money deposited with the city as a deposit for utility services shall not bear interest.

**Sec. 52-48. Refund of deposit.**

Refunds of deposits made for utility services shall be made upon the termination of such utility services only after payment of all indebtedness to the city for such utility services. Application of deposit may be made in partial or total settlement of accounts when supply is cut off for nonpayment of bill, or for any infraction or violation of any ordinance, rule or regulation of the city relative to utility services offered by the city.

**Sec. 52-49. Rates, charges and fees to be determined by council.**

The rates, charges and fees imposed for the use and enjoyment of any utility service furnished by the city to consumers or users thereof shall be as determined by the city council from time to time~~, and on file in the office of the city clerk.~~. All properties on which one or more water meters has been placed for service shall be subject to a base fee charge for each water meter placed. The property owner shall be liable for payment of such base fee; however a non-owner occupant may assume liability for payment of this base fee by entering into a utility service agreement for the receipt of one or more utility services at the property. In such event, the non-owner occupant and the city shall be jointly and severally liable for payment of the base fee. Stormwater, water and sewer, and sanitation collection rates, fees and charges will be billed together on the same invoice.

**Sec. 52-50. Payment.**

(a) The rates, charges and fees fixed and prescribed by the provisions of this article shall be due and payable on or before the ~~15th~~ 20th day of ~~the month~~ following the date ~~the meters are read~~of billing. The due date shall be clearly and legibly printed on the bill.

(b) All partial payments, or any amounts which do not constitute full satisfaction of the total fees and charges for services rendered by the stormwater department, water department, and sewer department or the ~~streets and sanitation~~environmental services department of the city and levied against any person who, or which, shall be the recipient of such services, shall be allocated and distributed in satisfaction of such fees and charges in the following order of priority:

(1) Fees and Miscellaneous Fees and Charges

(2) Stormwater Fees an Charges

(3) ~~The full amount of such partial payment shall first be credited against any amounts due and payable for~~ Fees and charges incurred for the collection and disposition of residential, commercial or industrial garbage, trash or any other waste or refuse by the city ~~streets and sanitation~~environmental services department.

(4) Sewer Fees and Charges

(5) Water Fees and Charges

~~(2) The balance of such partial payment, to the extent possible, of any amounts due and payable shall be credited to any amounts due for charges incurred for water delivery or any associated service.~~

**Sec. 52-51. Disconnection of service for nonpayment or during a state of emergency.**

(a) If any consumer of utility services furnished by the city does not pay the rates and charges on or before the due date for such rates and charges, the city shall have the authority to disconnect or terminate or cause to be disconnected or terminated all utility services furnished such consumer. Disconnection for nonpayment should not occur prior to the 28th day following issuance of a bill for utility services.

(b) During any federally, state, or locally declared state of emergency applicable within the City of Hendersonville, the city manager shall have the authority to suspend enforcement of the disconnection of utility services and suspend the imposition of late fees for nonpayment pursuant to this section. Such suspension shall be in effect during the state of emergency and for long thereafter as is determined reasonably necessary by the city manager to provide for the continuity of utility services to customers, taking into account the impact of the emergency upon the local economy, and the reasonable ability of customers to pay.

(c) During any federally, state, or locally declared state of emergency, the city manager or the utilities director shall have the authority to disconnect any customer from service where necessary to protect the public health, safety and welfare, prevent damage to property, or prevent or repair leaks or other damage to the system. Any service disconnected pursuant to the authority of this subparagraph (c) shall be restored as soon as is reasonably practicable after the circumstances giving rise to the disconnection have ended.

**Sec. 52-52. Resumption of service; reconnection fee.**

Any consumer of the utility services furnished by the city whose utility services have been disconnected or terminated at a propertyfor the nonpayment of the rates and charges therefore may have such utility services resumed by paying all rates and charges due by him or her to the city for that property, and in addition thereto, the currently required reconnection fee and all other fees or charges that may be applied by the city. Additionally, where the applicable utility service agreement allows, the City may require that all outstanding utility service accounts having an outstanding balance be paid in full prior to service being re-established at the property.

**Sec. 52-53. Voluntary temporary discontinuance of service.**

Consumers wishing to temporarily discontinue the use of any utility service furnished by the city, as for example when they will be out of town of an extended period of time , must give written notice thereof at the water and sewer department. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

**Sec. 52-54. Initiation of service.**

All water and sewer services shall become active once the water meter (or sewer meter) is set into place including, but not limited to, new construction. Services shall become due and payable during the billing cycle immediately following service activation, ~~ir~~regardless of physical connection.

**Sec. 52-55. Correction of errors.**

Failure to receive a utility service fee bill is not justification for nonpayment. If it is determined that a customer has been billed incorrectly, a corrective bill will be issued. If the customer has been overbilled,

the city will issue a corrective bill for ~~the entire determinable period~~ a maximum two year period of overbilling. ~~of the overbill.~~ If the customer has been underbilled or not billed, the city will process a corrective bill for up to ~~one~~ two- year of the underbilled/not billed charges.

The City Finance Director shall be authorized to enter into a payment plan with a customer who has been overbilled to allow the customer to pay the outstanding overbilled balance over a period of time not to exceed twenty-four (24) months, except where a customer reasonably demonstrates that longer is needed for payment of the balance, the period of repayment may be for up to thirty-six (36) months. Payment plans shall be evidenced in writing, and such writing must provide that all utility service accounts and the payment plan payments must be kept current for the payment plan to remain effective. The Finance Director shall be authorized to accelerate the balance owed on the payment plan for a customer default.

**Sec. 52-56. Inactive service.**

All utility services shall become active once the initial connection (tap and meter) to the utility system is set into place. Deactivation of accounts for simple convenience will not be permitted and all improved property will be subject to minimum base charges per the City of Hendersonville Fee Schedule. Both property owners and non-owner occupants having a utility service agreement with the city for the property, shall be liable for payment of all base fees. Services shall become due and payable during the billing cycle immediately following service billing activation and can include corrective billing up to two years. New construction and vacant lots, including demolition or condemnation, will have services activated once the connection (tap and meter) to the utility system has been made. Owners of vacant property, including demolition or condemnation, shall notify the City of Hendersonville of property status and request removal of meter in order to avoid minimum base charges.

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***ARTICLE IV. CONNECTION TO WATER AND SEWER LINES***

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~~**Sec. 52-127. Applications generally.**~~

~~Every application for a sewer or water connection shall state the name of the owner of the lot; the name of the person or persons applying for service; the name of the street on which such lot is situated; the number of the house, dwelling unit or place of business; if there is one on the lot, or, if not, a description of the location of the lot; the property identification number (PIN); the number of dwelling structures on the lot, the name of the subdivision, the number and kind of connections desired; and the character of the surface of the abutting street. Every such application shall be signed by the person making the application, shall be accompanied by the proper fees for making the connections applied for, and shall be filed with the water and sewer department.~~

~~**Sec. 52-128. Approval of application.**~~

~~No connection shall be made to any sewer or water lateral except after the written application therefor has been approved by the water and sewer department.~~

~~In addition to any other available remedy, violation of this section is also a misdemeanor as provided in section 1-6.~~

**SECTION 3.** If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

**SECTION 4.** It is the intention of the City Council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

**SECTION 5.** This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of October, 2026.

Attest: _____
Barbara G. Volk, Mayor, City of Hendersonville

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Jill Murray, City Clerk

Approved as to form:

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Angela S. Beeker, City Attorney