

Legislative #

120883

ORDINANCE NO. 120883

An ordinance of the City of Gainesville, Florida, amending Chapter 27 and Appendix A relating to utilities; by amending section 27-7 relating to customer deposits; by amending section 27-14 relating to payment due dates and penalties for late payments; by amending section 27-21 by adding definitions to clarify the customer service regulations; by amending Appendix A, Schedule of Fees, Rates and Charges to revise the service charges for returned payments consistent with state law; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, at least ten (10) days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of the public hearings in the City Hall Auditorium located on the first floor of City Hall in the City of Gainesville; and

WHEREAS, the public hearings were held pursuant to the published notices described above, at which all interested parties had an opportunity to be, and were, in fact, heard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Sections 27-7 and 27-14 of Article I. In General, of Chapter 27 of the Code of Ordinances are amended as set forth below. Except as amended herein, the remainder of Article I remains in full force and effect.

ARTICLE I. IN GENERAL

Sec. 27-7. - ~~Same~~—Deposits.

- (a) *Applicability. Deposits generally.* Prior to initiating utility service, the city shall, except as otherwise provided herein, require a deposit from all utility service ~~eonsumer~~ customers as determined by the general manager for utilities or his/her designee. Application for service by whatever means (written, verbal, telephonic, electronic or otherwise) and the payment of the deposit by the ~~eonsumer~~ customer constitute the

~~consumer's~~ customer's agreement that the deposit is advance payment for future utility services which may be applied as otherwise provided in this section. Residential and nonresidential customer service deposits shall be credited to the customer at the end of a two (2) year period, provided that the customer has maintained a satisfactory payment record or upon closure of a customer's account and the issuance of the final utility bill.

- (1) ~~Residential service.~~ All residential utility service consumers' 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 consumer who a) has a satisfactory payment record for utility service with the city or as evidenced in a letter of satisfactory credit from another utility or b) enrolls in a payment plan approved by the general manager for utilities or his/her designee. For purposes of this section satisfactory payment record for utility service is defined as no order for termination of service for nonpayment having been issued nor more than two returned checks or other payments not honored by a financial institution within the immediately preceding 12 months. Customers who are required to pay a deposit will pay the standard residential deposit amount(s) specified in Appendix A to this Code of Ordinances based on utility service(s) provided.
- (2) ~~Nonresidential service.~~ For all nonresidential consumers the required deposit shall be an amount equal to two times the estimated average monthly combined utility bill of the consumer, as determined by the general manager for utilities or his/her designee; except however, that no deposit for service shall be required for a nonresidential consumer who is an existing customer who has a satisfactory payment record for utility service, or, under rules promulgated by the general manager or his/her designee, provides other assurance of payment, including, but not limited to, surety bond, irrevocable letter of credit, or guarantee, in lieu of the deposit.
- (3) ~~Short term service.~~ No deposit shall be required for utility service for short term service, herein defined as service not to exceed 90 days, provided the service is required by an existing utility consumer with a satisfactory payment record.

(b) Residential Service Deposits.

- (1) No deposit required. There shall be no deposit required from a customer who (i) has a satisfactory payment record for utility services with the city; (ii) provides a letter of satisfactory credit from another utility; (iii) enrolls in a payment plan approved by the general manager for utilities or his/her designee; or (iv) is deemed to have good credit as reported by the city's credit reporting agency.
- (2) Standard deposit required. There shall be a standard deposit required from a customer (i) with no available credit history; or (ii) deemed to have acceptable credit as reported by the city's credit reporting agency.

- (3) Either standard deposit or full deposit required. A customer with an unsatisfactory payment history on a previous account with the city or who has been deemed to have unsatisfactory credit as reported by the city's credit reporting agency shall pay the higher amount of either a full deposit or standard deposit.
- (c2) Nonresidential Service Deposits.
- (1) Deposit required. A full deposit may be required from a nonresidential customer. In the event a customer enrolls in a payment program plan approved by the general manager for utilities or his/her designee, a customer shall pay a deposit amount equal to one times the estimated average monthly combined utility bill for the location at which utility services will be provided.
- (2) No deposit required. A deposit shall not be required from a nonresidential customer who a) has a satisfactory payment record for utility services with the city or b) provides other assurance of payment, including, but not limited to, surety bond, irrevocable letter of credit, or guarantee, in lieu of the deposit.
- (bd) Additional deposit. An additional deposit may be required for unsatisfactory payment history or for accounts for which the city has an insufficient utility deposit, as determined by the general manager for utilities or his/her designee. Written notice of the additional deposit requirement shall be provided to the ~~consumer~~ customer. The ~~consumer~~ customer may appeal such requirement in an informal hearing with the general manager for utilities or his/her designee.
- (ee) Interest; unclaimed deposits. Except as provided above ~~below~~, the deposit shall be held by the city until final settlement of the ~~consumer's~~ customer's account, at which time the deposit shall be applied against any utility bill due the city for such services. Any unused balance shall be refunded when the account is settled and closed. All deposits which have remained with the city for at least six months shall earn simple interest, accrued from the date tendered and calculated to the nearest day. Interest shall accrue at a rate comparable to the utility's interest earnings for the period, as determined by the general manager for utilities or his/her designee, and shall be credited to the ~~consumer~~ customer monthly. In the event any deposit is unclaimed for a period of 12 months after the service is discontinued, such unclaimed deposit and any accrued interest thereon shall be turned over to the state department of financial services ~~banking and finance~~ in accordance with Florida law following 30 days' written notice to such ~~consumer~~ customer mailed to the address shown on the application for service or as otherwise provided by the customer.
- (d) Refund of deposit. Deposits for residential service shall be credited to the consumer at the end of two years provided that the consumer has maintained a satisfactory payment record as determined by the general manager for utilities or his/her designee.
- (ef) Exemptions. The United States of America, the State of Florida, and all political subdivisions, agencies, boards, commissions and instrumentalities thereof are exempt

from any deposit requirements under this section. In addition, no deposit shall be required from any public utility supplying the public with electricity, gas, water, wastewater, transportation, telephone, or telegraph service.

- (fg) *Bond in lieu of deposit.* If a ~~consumer~~ customer required to make a deposit so elects, the customer ~~he/she~~ may post a surety bond or other financial assurance in lieu of the cash deposit. Such bond or financial assurance shall be issued by a surety authorized to do business in the State of Florida in an amount approved by the general manager for utilities or his/her designee. The bond in lieu of deposit ~~and~~ shall be on a form approved by the city which shall fully protect the city against any loss as a result of any nonpayment of utility bills rendered by the city to the customer ~~consumer~~.

Sec. 27-14. – Combined statements—Rendering; ~~information;~~ date payable; penalties; delinquencies.

- (a) A combined statement for all applicable utility services, including, but not limited to, electricity, gas, water, chilled water, reclaimed water, wastewater collection sanitary sewerage, stormwater maintenance, refuse/garbage collection, telecommunications, back-up generation, infrared scanning and rental security lighting, plus applicable taxes and surcharges, may be rendered each customer monthly for such service. The rendering of a combined statements is not an obligation on the part of the city and failure of the customer to receive the statement shall not release nor diminish the obligation of the customer with respect to payment thereof, or relieve the customer of any obligation under this article.
- (b) Each combined statement shall specify at a minimum the applicable customer class, meter reading(s) and usage, billing and delinquent dates, days of service, and monthly service fees as well as provide information such as the applicable taxes, surcharges, and fuel and purchased power adjustment costs.
- (c) Combined statements for service are due and payable when rendered.
- (d) If approved by the general manager or his/her designee, payments may be deferred or made in installments, ~~where it is deemed by him/her to be in the best interest of the city to do so.~~
- (e) In addition to other rates and charges established by this chapter, a service charge in accordance with the schedule set out in Appendix A shall be assessed as a late fee on any combined statement not paid in full by the close of business ~~on the 22 21st days~~ after being rendered. ~~provided, however, that~~ The United States of America, the State of Florida, and all political subdivisions, agencies, boards, commissions, and instrumentalities thereof, are exempt from the payment of the late fee imposed and levied thereby.
- (f) Any combined statement not paid in full by the close of business ~~on the 28th~~ 29 days after being rendered shall be delinquent and reported to the general manager for utilities or

his/her designee, who may thereupon discontinue any and/or all services. Combined statements may become delinquent at some time mutually agreed upon by the utility and the customer other than the period described herein. After disconnection, no services shall be restored until the customer makes arrangements satisfactory to the general manager for utilities or his/her designee to pay all required payments. A service charge in accordance with the schedule set out in Appendix A will be assessed upon issuance of a disconnection service order. Service will be restored to restore service the same day satisfactory payment and/or arrangements for satisfactory payment are made, provided that payment is made between 7:00 am to 6:00 p.m., Monday through Friday, excluding observed or federal holidays. There shall be additional reconnection charges set forth in Appendix A for payments made after 6:00 p.m. Monday through Friday, during weekends, or on observed and/or federal holidays. Customers with unsatisfactory payment records will not be reconnected without an additional deposit review as prescribed in subsection 27-7(b).

Section 2. Section 27-21 of Article II. Electricity, of Chapter 27 of the Code of

Ordinances is amended to revise certain existing definitions and add new definitions as set forth below. Except as amended herein, the remainder of Section 27-21 remains in full force and effect.

ARTICLE II. ELECTRICITY

Sec. 27-21. Definitions.

Customer shall mean any adult natural person or legal entity: (a) taking electric, natural gas, water, chilled water, reclaimed water, wastewater collection, telecommunications, back-up generation, rental security lighting, and/or any other utility service provided by the city; (b) in whose name a service account is listed; (c) who occupies a location, premise, or building structure; and/or (d) who is responsible for the payment of utility bills. Where two (2) or more customers join in an application for utility services, such customers shall be jointly and severally liable and shall be billed by means of a single periodic bill mailed to the customer designated to receive such bill. Whether or not the city received a joint application, where two (2) or more customers are occupying, using, benefiting from, and/or living in the same residence, each customer shall have joint and several liability for the utility services provided and the resulting utility bills. the person or entity responsible for payment for all electric, natural gas, water or wastewater services used at a specific location, and further defined as that person who has applied for and requested that services be made available at the specific location and has agreed to pay for all usage of such services occurring at the location. The customer and the consumer may be one and the same.

Full deposit shall mean an amount equal to two times the estimated average monthly combined utility bill for the location at which utility services will be provided, as determined by the general manager for utilities or his/her designee.

Residential service shall mean service to a single living unit located in a single-family or multiple-family dwelling or a living unit consisting of a sorority, fraternity, cooperative housing unit of a college or university or other nonprofit group living unit. A living unit shall be a place where people reside on a nontransient basis containing a room or rooms comprising the essential elements of a single housekeeping unit. Facilities for the preparation, storage and keeping of food for consumption within the premises shall cause a unit to be construed as a single dwelling unit. Each area with separate facilities for the preparation, storage and keeping of food for consumption within the premises shall be considered as a separate dwelling unit. Each separate facility for the preparation, storage and keeping of food for consumption within the premises shall cause a housekeeping unit to be construed as a single living unit. Generally, ~~a~~All energy supplied shall be through a single meter at a single point of delivery. This definition is intended to define a rate class. This definition is not to be construed as a definition of service conductors or related service entrance equipment.

Satisfactory payment record shall mean a 24 consecutive month period with no termination of utility services orders issued over the last consecutive twelve (12) month period for either nonpayment, returned payments, and/or no more than three (3) delinquent payments.

Standard deposit shall mean the current residential deposit amount prescribed in Appendix A of the Code of Ordinances.

Section 3. A portion of Appendix A of the Code of Ordinances, relating to utilities fees, rates, or charges is amended to read as set forth below. Except as amended herein, the remainder of Appendix A remains in full force and effect.

APPENDIX A - SCHEDULE OF FEES, RATES AND CHARGES

UTILITIES:

(7) *In general:*

b. Service Charges:

7.	Returned payment, each (\$27-14.3a)	\$20.00
	(or five percent of the face amount of the transaction whichever is greater)	
(i)	<u>For returned payments up to \$50.00</u>	<u>\$25.00</u>
(ii)	<u>For returned payments between \$50.01 - \$300.00</u>	<u>30.00</u>
(iii)	<u>For returned payments between \$300.01 - \$800.00</u>	<u>40.00</u>
(iv)	<u>For returned payments over \$800.00, the service charge shall be 5% of the face value of the transaction.</u>	

Section 4. It is the intention of the City Commission that the provisions of Sections 1 through 3 shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 5. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 6. All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 7. This ordinance shall become effective immediately upon adoption. However, the rates and charges provided herein shall be applicable to all monthly bills which are for the first time rendered and postmarked after 12:01 A.M. on October 1, 2015.

PASSED AND ADOPTED this ____ day of _____, 2015.

EDWARD B. BRADDY
MAYOR

ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This Ordinance passed on first reading this ____ day of _____, 2015.

This Ordinance passed on second reading this ____ day of _____, 2015.