

ORDINANCE NO. 562

AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER XV OF THE CITY CODE PERTAINING TO UTILITY SERVICES

WHEREAS, the Governing Body deems it necessary to amend the City Code to set forth new provisions pertaining to collection of delinquent city utility accounts.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

SECTION 1: Article 1 of Chapter XV of the City Code is amended to read as follows:

ARTICLE 1. GENERAL PROVISIONS

15-101. **DEFINITION.** For purposes of this article "utility services" shall include sewer, solid waste (refuse) and other utility services provided by the city. (Code 1989)

15-102. **MONTHLY CHARGES.** Charges for utility services shall be made each month of the calendar year. All bills are due on or before the close of business on the fifteenth day of the month following the month for which charges are made. The billing date shall be the last day of each month for which charges are made. Past due bills shall accrue a late charge (penalty) of 10% on any unpaid balance.

- (a) All utility customers shall be required to complete a "Utility Service Contract" and pay a Processing Fee as set forth in the Fee Schedule prior to using utility services.
- (b) Property owners who rent or lease to customers of the city's utility services shall be responsible for advising the Administrative Department of the customers' current address and any changes that may occur from customers moving in or moving out of said address.
- (b) Person Responsible for Payment. The rates and charges herein established in the Fee Schedule shall be collected from the customers of the City of Basehor for utility services. Where payment is delinquent and the customer owns the property they shall be responsible for the delinquency. If payment is delinquent and the customer is renting or leasing, they shall be responsible for the delinquency. However, the landlord is ultimately responsible and the delinquency may be pursued through legal action.

15-103. **DELINQUENCY AND HEARING.** On an annual basis, the City Clerk or designated officer (hereafter referred to as "City Clerk") shall compile a list of all customers who are at least two (2) months delinquent in their utility bill payments. The City Clerk shall prepare a delinquency notice quarterly for each delinquent

account, and mail such notice to the customer (and the property owner, if known and different from the customer) at the address shown in the records of the city. The notice shall indicate: (1) the amount due, plus accumulated late charges; (2) the customer's right to a hearing before the city administrator or, if requested, another officer designated by the City; and (3) that such hearing shall be requested in writing, filed with the City Clerk within five (5) working days after the mailing date of the delinquency notice. Upon receiving a request for such hearing, the City Clerk shall advise the applicant of the date and time of the hearing. At the hearing, the customer and the city may present such evidence as is pertinent to the issue, may be represented by counsel, may examine and cross-examine witnesses, but formal rules of evidence shall not be followed. If the hearing officer determines that there is a delinquency, he may impose a delinquency charge in an amount associated with the method of collection as set forth in section 15-107 and Fee Schedule. Hearings may be conducted by any officer appointed by the Mayor and confirmed by the City Council.

15-104. FINDING. Following the hearing, if the hearing officer finds that collection of the debt should not be pursued, then notice of such finding shall be presented to the City Clerk. If the officer finds that collection of debt should be pursued, an order shall be issued five days after the date of the order directing the City Clerk to proceed with collection of delinquent debt set out in section 15-107. An order shall be mailed to the property owner or customer no later than five days after the hearing advising them of the outcome of the hearing. The customer shall be notified either in person or by mailing a letter to his or her last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The hearing officer has a right, for good cause, to grant an extension, not to exceed 10 days, for the collection of debt for such service. (Code 1989).

15-105. LANDLORD LIABILITY. (a) Owners of premises served by utility services under this ordinance shall be liable for payment of the costs of any utility services account delinquency arising from services provided to such premises, regardless of whether the utility services were furnished upon the application and request of the owner or lessee of the premises. This provision shall also apply when the premises are leased by or through an agent or other representative of the owner.

(b) In the event that a delinquency arises involving leased premises, in addition to the tenant, the owner or owner's agent shall be notified in writing of the delinquency of the lessee by first class regular mail within 10 days after the billing to the lessee becomes delinquent. Notice shall be sufficient if mailed to the last known address of the owner or owner's agent known to city personnel responsible for said mailing, after reasonable inquiry.

(c) If utility services are furnished to a leased premises on the application or request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of services furnished.

(d) The city may collect the amount of the unpaid bill for utility services by any lawful means. Provided, however, that in no event may the city place a lien, as provided in subsection (a) of Section 15-106, on real estate of the lessor.

15-106. DENIAL OF SERVICE. If at the time of application for utility services the applicant has an outstanding balance or unpaid fees or charges for utility

services provided by the city, the application shall not be accepted until all fees or charges are paid in full.

15-107 ACCEPTABLE METHODS OF COLLECTION. The City of Basehor may, as authorized under applicable law, use the following methods to collect delinquent utility accounts.

(a) Real Estate Lien. Delinquent charges shall constitute a lien upon the customer's real estate, and shall be certified by the City Clerk to the County clerk, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes collectible by law.

(b) State of Kansas Setoff Program. This method of collection shall be used at the discretion of the City Clerk in accordance with K.S.A. 75-6201 et seq. In the event properties have been foreclosed on or tenants moved leaving an outstanding balance of \$25 or more, this shall be the preferred method of collection.

(c) Collection Agency and/or City Attorney. In the event a real estate lien or State Setoff Program is not an acceptable method of collection, the City Clerk may contract with an Agency and/or the City Attorney to collect delinquent accounts.

15-108. PENALTY ASSESSMENT. There shall be a 10% penalty assessed against any delinquent customer and/or landlord for any delinquent account submitted to the clerk of Leavenworth County, State of Kansas Setoff Program, or Collection Agency as provided in section 15-107 of this article. The notice required to be sent to any delinquent customer shall contain a disclosure that the penalty will be assessed in the event such delinquent charge is so submitted. (Ord. 238, Sec. 1)

SECTION 2. REPEALER. Existing Article 1 of Chapter XV of the City Code is hereby repealed.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect upon approval by the Mayor and publication in the official City newspaper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF BASEHOR, KANSAS ON THE 16th DAY OF November, 2009.

Terry Hill 11-17-09
TERRY HILL, Mayor

ATTEST:

Mary Mogle
MARY MOGLE, City Clerk



APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "P. Reavey", is written over a horizontal line.

PATRICK G. REAVEY, City Attorney